ETHOS URBAN

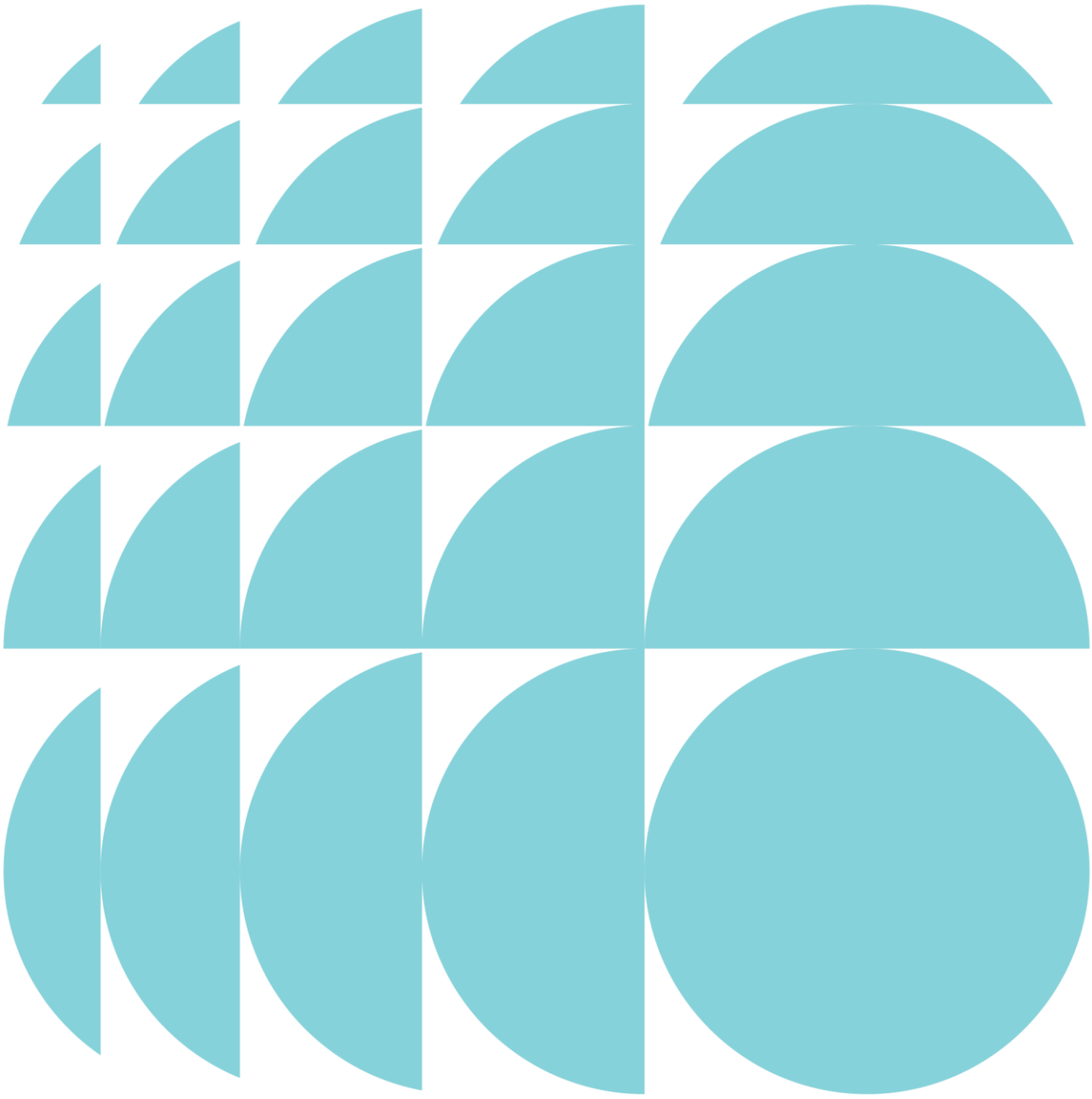
Statement of Environmental Effects
Section 96AA Application

Peninsula Gardens, 79 Cabbage Tree Road, Bayview

Section 96AA Modification to a Consent for the Development of Seniors Housing

Submitted to Northern Beaches Council
On behalf of AVEO

13 February 2018 | 16321



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1.0 Introduction

This Statement of Environmental Effects (SEE) is submitted to Northern Beaches Council in support of a Section 96AA Application to modify a Consent (Consent 82/149) at Peninsula Gardens, 79 Cabbage Tree Road, Bayview.

The Section 96AA application seeks approval for:

- The construction of 25 self-contained dwellings (independent living units) to be used for Seniors Housing;
- Associated removal of vegetation, including eight (8) trees of high retention value;
- Cut and fill operations;
- New internal access roads; and
- Landscaping and planting post construction of the independent living units.

This application is classed as 'integrated development' under Section 91 of the *Environmental Planning and Assessment Act 1979* as it will require approvals under the *Water Management Act 2000* and the *Rural Fires Act 1997*.

This SEE has been prepared by Ethos Urban on behalf of Aveo, and is based on the Architectural Plans provided by Jackson Teece (see **Appendix A**) and other supporting technical information appended to the report (see Table of Contents).

This report describes the site, its environs, the proposed modification, and provides an assessment of the environmental impacts and identifies the steps to be taken to protect or lessen the potential impacts on the environment.

1.1 Background

A pre-lodgement meeting was held with Northern Beaches Council on 30 August 2017. Based on the development plans at the time of the meeting, Council advised that the proposal was not acceptable in this form with respect to the application of Section 96 in addition to the associated impacts of the proposed seniors housing development. Council further recommended that should the applicant be able to satisfactorily demonstrate that the site is suitable for more intensive development, that the scheme be redesigned, and the development relocated to reduce the impact upon existing vegetation. The amended proposal should then be lodged as a new Development Application.

In response to Council's comments, this amended s96AA application is submitted with the following rationale:

- This application utilises existing use rights under Consent 82/149 for the construction of seniors housing pursuant to Section 106 of the Act, which would otherwise be a prohibited use in the relevant RU2 'Rural Landscape' zone;
- As detailed in **Section 5**, legal advice has been obtained by Norton Rose Fulbright (**Appendix B**), advising that the proposed development qualifies as 'substantially the same development' and can therefore lawfully be approved under Section 96AA of the EP&A Act; and
- As detailed in **Section 6**, the proposed modification has been designed to minimise the environmental impact, most notably on vegetation communities.

2.0 Consent Proposed to be Modified

The site has the benefit of a development consent issued by the Land and Environment Court (**LEC**) on 9 March 1982 (Consent 82/149) for the construction of 'a retirement village'. Specifically, the consent allowed for the development of:

- 40 hostel suites;
- 185 self-care units;
- A village centre;
- Car parking (188 spaces);
- Recreational facilities; and
- Extensive landscaping.

The development plans, as approved under Consent 82/149, are shown in **Figure 1**.

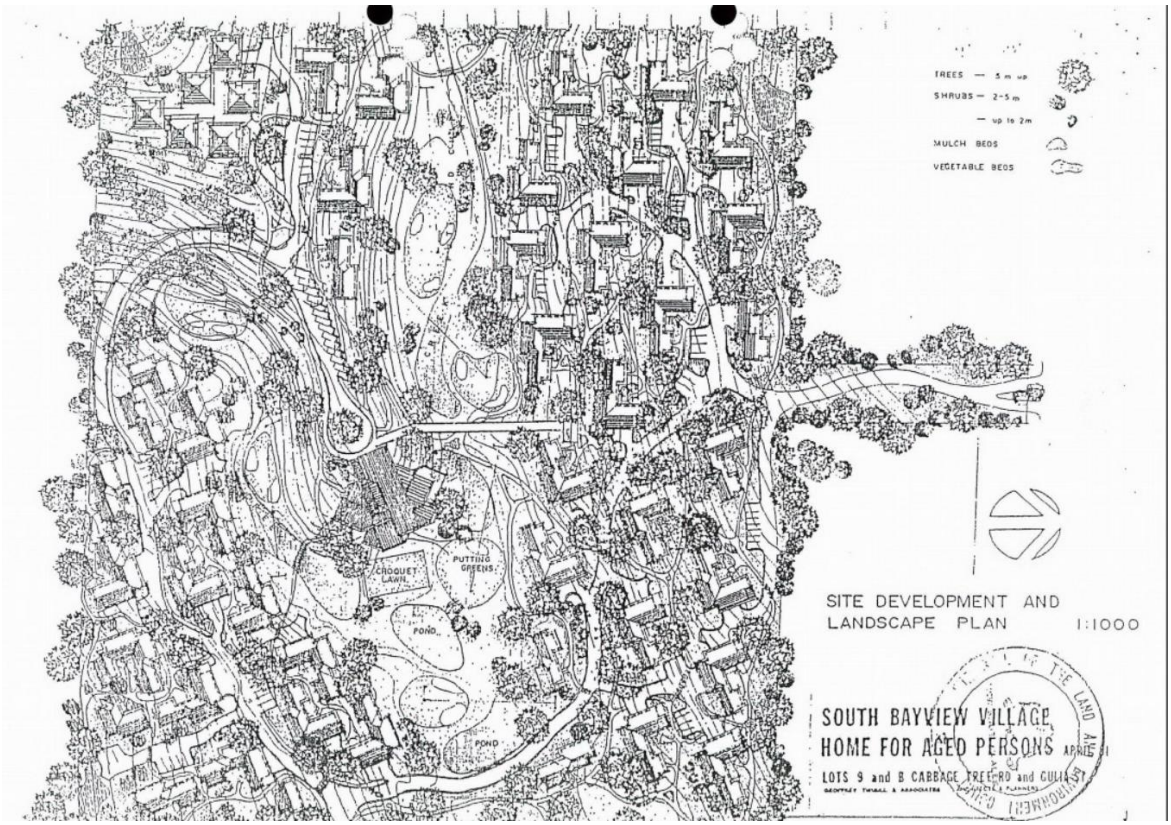

Figure 1 Development plans approved under Consent 82/149

Source: Plan referred to in condition 14 of the 1982 Consent (Exhibit H Plan)

Condition 14 of the 1982 Consent provided that the development was to be generally in accordance with plans tendered to the LEC as Exhibit 2 as amended by Exhibit H. The 1982 Consent permitted the development to be constructed in stages.

At the time the 1982 Consent was granted, the statutory regime required building approval to be granted after development consent was obtained. Usually design details would be set out in the building approval. On 4 March 1986 building approval 1464/86 was obtained. Consent was also granted prior to the amendments of the *Environmental Planning and Assessment Act 1979* which introduced 'integrated' development. At this time, considerably less detail was required to be provided in development applications and in development consents than is currently needed, with much of the design detail controlled by way of subsequent building approvals and their conditions.

The 1982 Consent has been modified over time, as follows:

1. On 31 December 1986 the LEC granted a modification to condition 14. This had the effect of:
    a. Modifying the plans to adopt some of those approved as part of the building approval, and an additional plan; and
    b. Requiring a separate development application for the 112 self-contained units not included in stage 1, before building approval could be granted;
2. On 27 March 2002, the LEC granted a further modification to condition 14. This had the effect of requiring a separate s96 application for any redesign or relocation of the 112 self-contained units not included in stage 1, before a construction certificate could be issued; and
3. On 14 July 2005, the LEC granted a modification to stage 2, which involved small extensions to balconies, conversion of areas previously designated for storage into habitable area, alteration of the arrangement of upper and lower floor areas on two of the unit clusters and a reduction in self-care units in stage 2, from 112 to 73 (achieved through rearrangement of internal walls of approved buildings, to replace 1 bedroom units with 2 bedroom units. Refer to **Figure 2** for the amended plan.

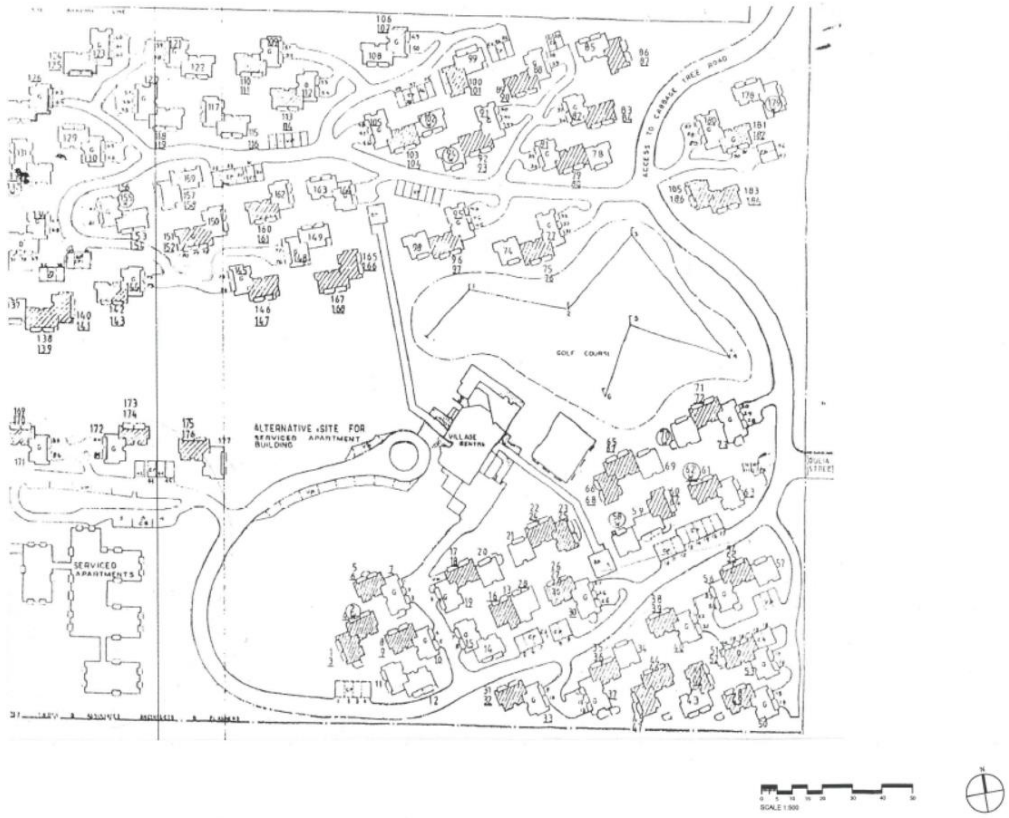

Figure 2 Development plans (as amended)

Source: 2005 LEC Modification

The scope of the 1982 Consent has been the subject of a determination by the LEC. On 11 December 2004, the LEC made a declaration that the plan referred to in condition 14 of the 1982 Consent was the 'All Stages Plan' (refer to **Figure 1**). This is relevant, in order to determine what was actually approved as part of the 1982 Consent, and as a result, what is being modified.

Since the 1982 Consent was granted, Stage 1 is complete but no units have been constructed within Stage 2.

The original Notice of Determination (**Appendix C**) and approved plans as modified (**Appendix D**) are appended to this report.

3.0 Site Analysis

3.1 Site Location and Context

The site is located at 79 Cabbage Tree Road, Bayview within the Northern Beaches Council Local Government Area and is commonly known as Peninsula Gardens.

Bayview is located 31km north of the Sydney Central Business District, near to the southernmost extent of Pittwater. The suburb is heavily vegetated and is generally undulating, with steep inclines between Pittwater and Ku-ring-gai Chase National Park to the west. The site itself is located in the south-west section of Bayview, directly east of the Katandra Bushland Sanctuary. The site's locational context is shown at **Figure 3**.

Figure 3 Locational Context

Source: Ethos Urban and Google Maps

3.2 Site Description

The site is legally described as Lot 12 DP1081105. The land is owned by Aveo.

The site has an area of 5.6 hectares and is generally rectangular in shape, with two fragments of land connecting to Cabbage Tree Road. A survey plan is located at **Appendix E**.

Features of the property include the following:

- The site has frontages to Cabbage Tree Road and Gulia Street. Vehicle access to the village is available from Cabbage Tree Road. Access is currently restricted to/from Guila Street.

- The southern part of the site contains 73 self-contained dwellings constructed in 'Stage 1' of the retirement village. The northern part of the site is currently undeveloped and is the area in which the approved 'Stage 2' of the village is located.
- The site is located across a valley, with land falling from its northern, western and southern boundaries into a central valley.
- The site is intersected on its western boundary by two watercourses originating on the western slope and converging to form one in the centre of the site, where it is then piped underground and connected to the street stormwater system further to the east.

Existing development on site represents 'Stage 1' of the approved retirement village, and comprises the following components:

- 21 building 'clusters' containing a total of 73 independent self-care units with associated parking.
- A 'village centre' and hostel building located in the central part of the site.
- Established landscaping along the periphery of the site and a network of internal pathways.
- The low lying area of the site contains outdoor recreational facilities including a croquet lawn and 6-hole chip and putting golf course which are generally turfed.
- The main access road from Cabbage Tree Road extends to the southern part of the site (servicing the existing Stage 1 development) meandering over a watercourse and terminating at the Village Centre building. In addition, pedestrian and emergency vehicle access is available from Gulia Street.

An aerial photo of the site is shown at **Figures 4**. Photographs of the site are shown at **Figures 5 and 6**.

The entire site area of Peninsula Gardens is zoned RU2 Rural Landscape under the provisions of the Pittwater Local Environmental Plan 2014.

Figure 4 Lot 12 DP1081105 (site indicated by red circle)

Source: SIX Maps

Figure 5 Putt-Putt golf course (in foreground) and development site (in background)

Source: Ethos Urban

Figure 6 Development site (right of driveway)

Source: Ethos Urban

3.3 Surrounding Development

The land surrounding the site is predominantly residential in nature interspersed with some heavily vegetated areas.

- **To the north:** To the immediate north of the site is a parcel of bushland across the ridgeline. 12 residential dwellings are located between the site and Cabbage Tree Road to the west of the Peninsula Gardens access road. These dwellings are typically semi-detached one or two storey dwellings. Further to the north is additional dense bushland with residential dwellings interspersed across a steep topographical incline. Pittwater is approximately 2km to the north. Other seniors living complexes operated by AVEO include Minkara (900m to the north) and Bayview (900m to the northwest).
- **To the south:** Within the Peninsula Gardens facility, to the immediate south of the development site is the putt-putt golf course, with the majority of the independent living units on the southern interface of the course. External to the site is a low density residential area, with other land uses including an electrical substation (400m), the Mona Vale General Cemetery (500m) and the Warriewood Business Park (700m).
- **To the east:** External to the site's east, a large low density residential area of Mona Vale sits between the Bayview Golf Course to the north and Mona Vale Road to the south. The town centre of Mona Vale is 1.75km away, whilst Mona Vale Beach is 2.75km to the east.
- **To the west:** Internal to the Peninsula Gardens site, the communal facilities including community centre and reception are within 100m of the development site. External to the Peninsula Gardens site, dense bushland forms part of the land to the west, as part of the Katandra Bushland Sanctuary. This land forms a steep gradient, and includes small watercourses that connect into the site which include Katandra Creek. Beyond this parcel of bushland is the semi-rural suburb of Ingleside, with Ku-ring-gai Chase National Park further to the west.

Figure 7 Residential character at Cabbage Tree Road entrance to the site (to the north)

Source: Google Earth

Figure 8 Mona Vale General Cemetery to the (500m to the south)

Source: Google Earth

Figure 9 Watercourse flowing into site from Katandra Bushland Sanctuary

Source: Ethos Urban

4.0 Proposed modifications to consent

The proposal seeks to modify 'Stage 2' of development consent 82/149 pursuant to Section 96AA of the *Environmental Planning and Assessment Act 1979*. The consent, as modified by the LEC, was approved for the construction of 73 self-care units. The proposed modification will involve the following:

- The construction of 25 self-contained dwellings (self-care units) to be used for seniors housing;
- Associated removal of vegetation, including eight (8) trees of high retention value;
- Cut and fill operations;
- New internal access roads; and
- Landscaping and planting post construction of the independent living units.

The composition of the built form will vary with 7 units being within single storey buildings and 18 of the units being within two storey buildings orientated north-south. Each independent living unit will be accessed via an internal private driveway and will be serviced by independent garages.

The siting of the building platforms has duly considered the topographical attributes of the site in addition to establishing an appropriate asset protection zone to address the threat of bushfire.

Cut and fill operations, including the construction of retaining walls are required to prepare the site for development. Two access loop roads are proposed, one each side of the existing access road. Seven (7) bin enclosures are proposed to ensure that they are accessible by each of the units.

Architectural drawings illustrating the proposed development are included at **Appendix A**, and Landscape Drawings are available at **Appendix F**. A photomontage of the proposed development is shown **at Figure 10**.

Figure 10 Architectural Impression of Proposed Development

Source: Jackson Teece

4.1 Numerical Overview

The key numeric development information is summarised in **Table 1**.

Table 1 Key development information

Component	Proposal
Site area • Overall site area • Development area	 • 71,413m^2 (approx. 7.1 hectares) • 12,989m^2 (approx. 1.3 hectares)
GFA • Overall site GFA (pre-development) • Overall site GFA (post-development) • Proposed development GFA	 • 13,203m^2 • 16,397m^2 • 3,194m^2
FSR (overall site post-development)	0.22:1
Maximum Height	10.309m
Apartments	25
Apartment Mix	25 x 2 bedroom
Car spaces	36
Site coverage of development area	4,125m^2 (42%)
Landscaped Area	41,500m^2 (58%)
Deep Soil Area	41,400m^2 (58%)

4.2 Site Preparation and Tree Removal

The proposed seniors housing requires the removal of 1.3ha of vegetation on the development site. Within the development footprint itself, eight (8) trees identified as being of high retention value in the Arboricultural Preliminary Assessment undertaken by Eco Logical Australia (**Appendix G**) are proposed to be removed. The high retention trees to be removed, which are spread across the length of the site, include:

- *Angophora costata* – 30m in height;
- *Allocasuarina torulosa* – 22m in height*;*
- *Livistona australis* – 15m in height;
- *Syncarpia glomulifera* – 30m in height*;*
- *Livistona australis* – 12m in height;
- *Allocasuarina torulosa* – 18m in height;
- *Syncarpia glomulifera* – 22m in height*;* and
- *Syncarpia glomulifera* – 18m in height.

Following the vegetation removal, significant cut and fill operations are required to take place. A Concept Cut Fill Plan has been prepared by Northrop and is available at **Appendix H**. The plan demonstrates that in parts of the site, surface levels will need to be elevated by up to 4.4m and reduced by up to 6.2m from present levels to allow for the proposed development. This is in addition to retaining walls that are required for the internal access road being constructed on site.

4.3 Built Form

The proposal includes the development of nine (9) separate buildings resulting in a total of 25 Independent Living Units. Four (4) of the buildings are single storey, whilst the remaining five (5) buildings will be two-storey with a configuration adopting ‘over’ (i.e. at ground level) and ‘under’ (i.e. at lower ground level) units to match the respective road levels.

All units will be in a two (2) bedroom, two (2) bathroom configuration. Eleven (11) units will have two (2) car spaces, whilst fourteen (14) units will have one (1) car space, resulting in a total of 36 car spaces to service Stage 2 of the development. These car spaces are to be off-street parking.

The numerical information detailing the key development data is captured in **Table 2**.

Table 2 Numerical Information by Building Type

Building Type	Buildings total	Units total	Bedrooms per unit	Bathrooms per unit	Car Spaces per unit	Floor space per unit[1]
1A • Over • Under	2	8 • 4 • 4	• 2 • 2	• 2 • 2	• 1 • 1	• 124m^2 • 107m^2
1B	1	2	2	2	1	107m^2
2A	3	5	2	2	2	117m^2
3A • Over • Under	1	2 • 1 • 1	• 2 • 2	• 2 • 2	• 2 • 2	• 130m^2 • 107m^2
4A • Over • Under	1	4 • 2 • 2	• 2 • 2	• 2 • 2	• 1 • 1	• 122m^2 • 121m^2
5A • Over • Under	1	4 • 2 • 2	• 2 • 2	• 2 • 2	• 2 • 2	• 118m^2 • 117m^2
TOTAL	9	25	50 (across Stage 2)	50 (across Stage 2)	36 (across Stage 2)	2,916m^2 (across Stage 2)

The building height varies across each of the Independent Living Units. Five (5) of the 25 units exceed the maximum building height of 8.5m, as measured from the highest point of the building to ground level. This information is captured in the table below.

Table 3 Proposed maximum building height for ILUs exceeding standard (8.5m)

Independent Living Units (ILU)	Maximum proposed building height
ILU 10	10.679m
ILU 11 & ILU 12	10.081m
ILU 13 & ILU 14	8.763m

Further information regarding the design intent of the proposed development is available in the Architect's Design Statement (**Appendix I**).

[1] Excluding garage space

4.4 Materials and Finishes

The selection of materials and finishes for the seniors housing development are of a high quality and have been specifically chosen to ensure that the development contributes positively to the character of the local context and sits naturally within the landscape setting. The material palette for the proposed development includes a mix of face brickwork and cladding in a suite of maroons, creams and greys. Further details are set out within the architectural drawings in **Appendix A**.

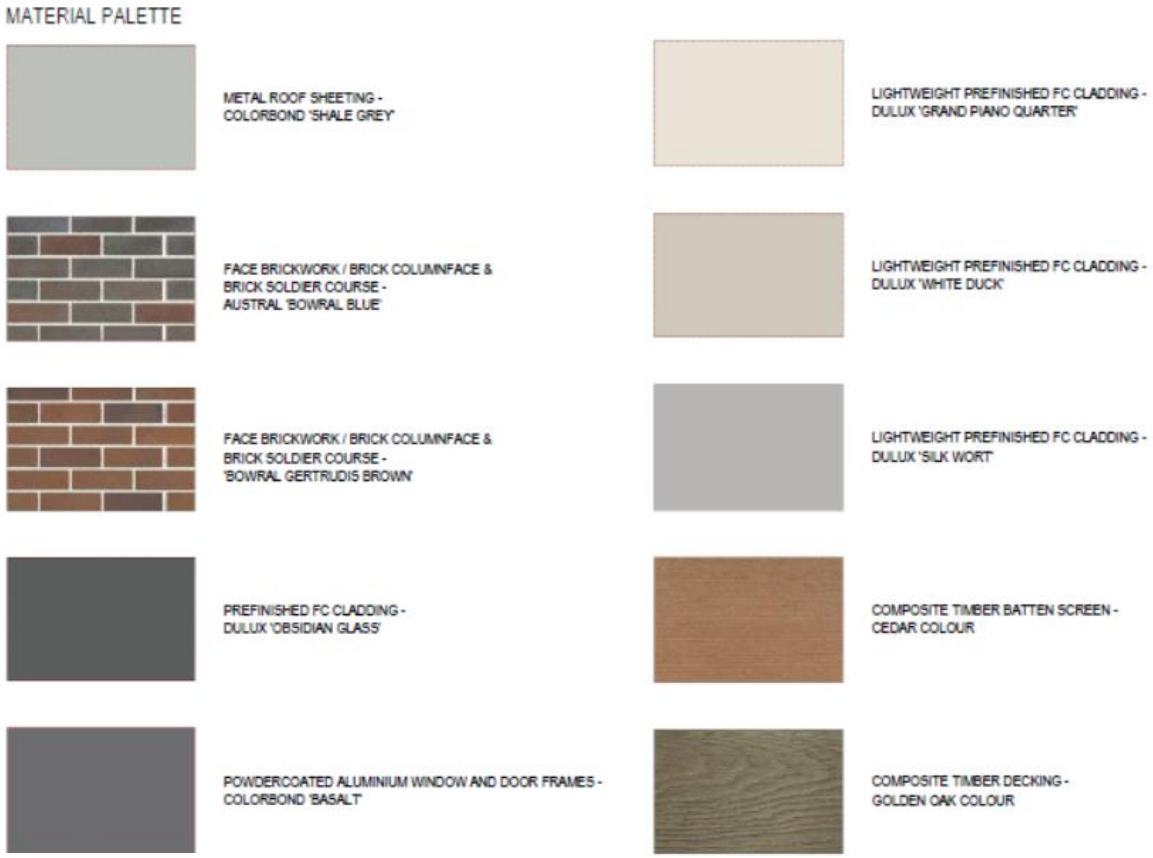

Figure 11 Proposed materials and finishes

Source: Jackson Teece

4.5 Site Access and Parking

The independent living units to be constructed as Stage 2 are proposed to be accessed by a one-way internal loop road connecting to the existing concrete access road that runs north/south between Cabbage Tree Road and the existing development. The proposed one-way internal loop road will run primarily east/west, providing immediate frontages to each of the independent living units. No further modifications to the existing access road will be carried out and access to the site will remain unchanged. The proposed new internal access roads are shown in **Figure 12**.

Separate garage car parking spaces are to be provided for each independent living unit, with shared at-grade visitor car parking provided off the internal access roads containing three (3) visitor car parking spaces, plus six (6) separate visitor car parking spaces dedicated for Unit Type 4A and 5A (ILO 1, 2, 5 and 6).

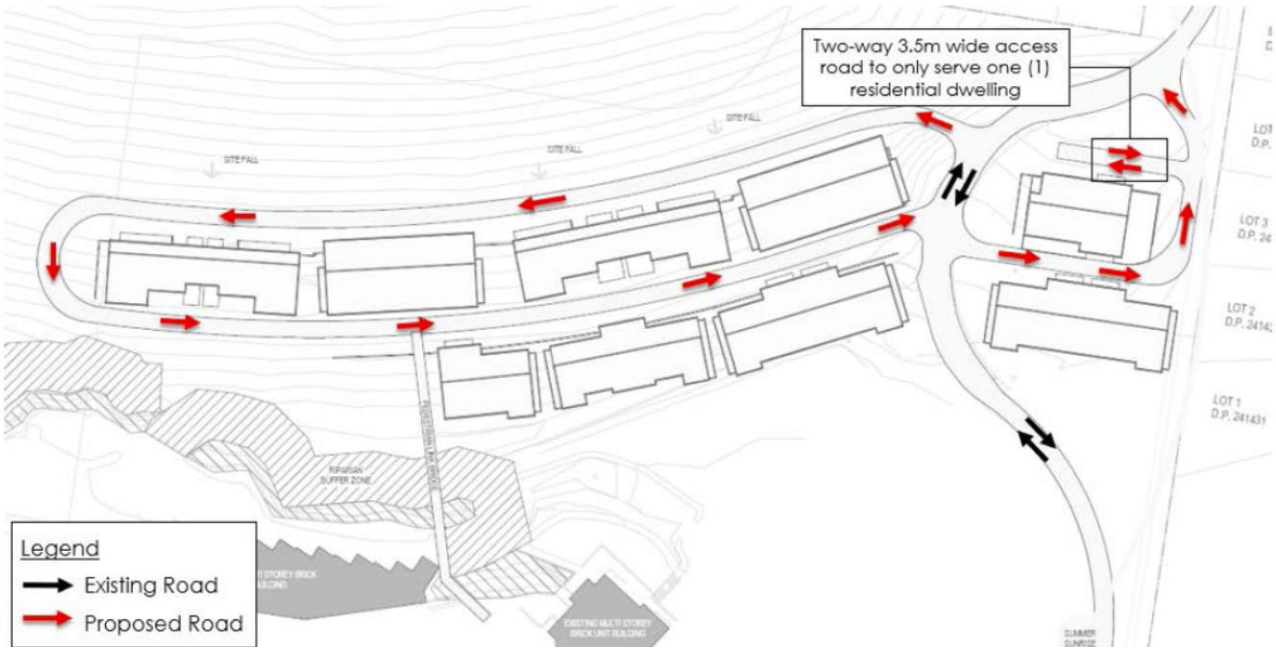

Figure 12 Proposed Internal Service Road Layout

Source: The Transport Planning Partnership

4.6 Landscaping

A Landscape Report has been prepared by Sym Studio and is available at **Appendix F**. The plans include an engineered embankment on the northern side of the internal access road to address topographical constraints of the site. Bio swales are used on the verges to assist in the treatment of stormwater. Landscape walling is placed in front of each residence to achieve a consistent streetscape and level transitions. Proposed vegetation will be primarily native planting and groundcovers.

4.7 Waste Management

A Waste Management Plan has been prepared by Aveo and is available at **Appendix J**. Bin storage plans will be provided at-grade off the internal service roads. During garbage collection days, the building manager will relocate these bins on the kerbside for collection. A private waste contractor using a 6.4m small rigid vehicle or smaller would be used to conduct waste collection activities. The proposal allows for seven (7) bin enclosures within the development footprint to allow for easy access for residents. No residents are required to manoeuvre bins to and from collection points. All enclosures have been designed to meet Council's DCP C1.12 controls.

The proposed development is calculated to generate approximately 5,500L of waste weekly, inclusive of 2,000L of general waste and 3,500L of recycling. General waste is anticipated to be collected weekly, whilst recycling is to be collected fortnightly.

4.8 Proposed Construction Activities

The proposed construction works will primarily involve the following:

- site clearing and removal of trees and existing landscaping;
- piling and excavation works;
- implementation of new internal access roads to connect with the existing service road;
- construction of the independent living unit development;
- erection of façade and landscaping works; and

- installation of services and internal finishing.

The extent of the work site shall generally be wholly contained within the site boundary, with minimal impact on the surrounding road network.

The construction works are expected to extend for a total period of 18-months. The construction staging, description and estimated duration of the work activities are summarised in the table below.

Table 4 Construction Staging and Duration of Works

Construction Stage	Construction Activities	Description of Works	Duration
1	Early Works	• Excavation and removal of trees, soil and existing landscaping • Construction of new internal service roads, retaining walls and services • Site establishment of scaffolding and hoarding along the site perimeter • Piling and concrete pour of piles	5 months
2	Building Structure Works	• Form and pour the ground floor slab • Progressive erection of building perimeter scaffold • Form and pour the structure of the building • Each level of the structure will follow a typical concrete pour cycle	4 months
3	Façade Works	• Erection of the façade structure • Installation of windows • Erect balustrades to balconies • Preparation and painting of the façade • Remove scaffold from the perimeter of the building	4 months
4	Internal Fit-Out Works	• Installation of services and partition walls • Installation of joinery and doors • Waterproof membranes to wet areas • Floor and wall tiling • Install floor finishes timber/carpet and internal painting	3 months
5	External Works	• Installation of hard landscaping • Installation of soft landscaping	2 months
Total			**18 months**

4.8.1 Proposed Construction Hours

Construction works shall be carried out in accordance with the approved work hours specified in the conditions of consent for development. It is envisaged that the typical construction work hours would be as follows:

- Monday to Friday: 7.30am – 5.30pm
- Saturday: 7.30am – 5.30pm

No work to be undertaken on Sundays or Public Holidays.

5.0 Substantially the same development

Section 96(AA) of the *Environmental Planning and Assessment Act 1979* states that a consent authority may modify a development consent if *'it is satisfied that the development to which the consent as modified relates is substantially the same development as the development for which the consent was originally granted and before that consent as originally granted was modified (if at all)'*. The threshold test, as applied below, has been informed by legal advice obtained by Norton Rose Fulbright (**Appendix B**).

5.1 Overview of 'Substantially the same' test

The threshold test for demonstrating whether a development as modified is substantially the same has been the subject of extensive case law whereby a general principle of adopting a comparison to both the qualitative and quantitative aspects of the development should be carried out. This includes numerous LEC decisions which consider the meaning of *'substantially the same'* for the purposes of this threshold test. Norton Rose Fulbright summarises the main principles emerging from those cases as follows:

- *The LEC will have regard to what is proposed and has been approved, by comparing the 'before and after' situations. This involves a comparison of both qualitative and quantitative aspects of the developments.*
- *In approaching the exercise, one should not fall into the trap of saying that the development was for a certain use, and as amended, it will be for precisely the same use and accordingly is substantially the same development. It is the specific elements and impacts of the two developments which must be compared, to determine this question.*
- *The question is essentially one of fact.*
- *It is necessary to consider whether the modified development will be 'essentially or materially the same as the currently approved development', or 'have the same essence'.*
- *The comparison between the original development and the modified development involves an appreciation, qualitative, as well as quantitative, of the developments being compared'.*
- *A distinction can be drawn between a matter of substance as compared to a matter of mere detail.*
- *That in the context of section 96(2), to 'modify' means to 'alter without radical transformation'. An application to modify which alters an essential characteristic of a development will generally not be permitted by section 96(2).*
- *The modification power is 'beneficial' and 'facultative'*
- *Additional environmental impacts associated with a modification application do not necessarily preclude a conclusion that the development was substantially the same, but rather is a matter to be considered as part of the deliberations on the merits.*

5.2 Application of 'substantially the same' test

In considering whether the proposed modification constitutes substantially the same development, the following aspects of the original development and that as modified are noted:

- The proposed modification does not change the purpose for which development is being carried out (being a seniors living facility);
- The land use remains unchanged, although the proposed modification would result in the land being less densely used than as contemplated in the 1982 Consent. In this regard, the proposed number of units (25 units) and building envelopes (9 buildings) is less than the number of units (112 units) and building envelopes (33 buildings) approved for stage 2 under the 1982 Consent.
- The proposed modification would result in a reduced development footprint, however the part of the site being used for development is generally the same.
- The arrangement of land use is generally the same in that the proposed buildings are spread evenly across the same part of the site as identified in the 1982 Consent for the stage 2 buildings;
- The access locations (ingress and egress points) for the development remain the same;

- The ratio of traffic generation per unit is reduced (2.1 trips per dwelling per day according to the Traffic and Parking Impact Assessment prepared in connection with the proposed modification as compared with 0.17 trips per unit resident per hour according to the Statement of Environmental Effects prepared in connection with the application for the 1982 Consent). The actual traffic generation will be reduced under the proposed modification, as compared with what was approved under the 1982 Consent having regard to:
  - The reduced traffic generation rates; and
  - The reduced number of proposed units;
- The proposed modification will result in fewer ecological impacts than the 1982 Consent. The Flora and Fauna Assessment prepared in connection with the proposed modification concludes that these impacts are acceptable and consistent with the objectives of clause 7.6 of the *Pittwater Local Environmental Plan 2014* provided that the mitigation measures detailed in the report are adopted. Conversely little ecological assessment appears to have been undertaken in connection with the application for the 1982 Consent. The Ecological Report prepared in connection with the 2005 modification describes the 1982 Consent as approving *'the removal of essentially all of the native vegetation from that portion of the site. That loss was deemed acceptable at the time of the development consent*'.
- In this regard, the qualitative aspects of the proposed modification are substantially the same development as that approved under the 1982 Consent, and that the Proposal does not propose to change the essential characteristics of the development.
- Quantitatively, the proposed modification would result in a reduction in the size of the development. Usually cases which consider the substantially the same test deal with an increase, rather than a decrease, in the size of the development and consequent environmental impacts. For this reason, there is not a substantial amount of case law relevant to the particulars of the proposed modification. However, the proposed modification will remain substantially the same as approved under the 1982 Consent.
- In *Ray Fitz-Gibbon Architects Pty Ltd v Warringah Council* [2004] NSWLEC 482 the council and the LEC were satisfied that a reduction in the number of units in a proposed residential flat building from 18 to 17 was substantially the same development. In *United Well Investments Pty Limited v South Sydney City Council* [2000] NSWLEC 126 the LEC was satisfied that deleting 14 accommodation rooms on the first floor of the hotel component of the development and replacing them with 3 conference rooms was substantially the same development. In that case, however, the LEC noted that the fact there was no external impact contributed to the change being minor, because the building envelope remained the same.
- It is noted that the original development consent anticipated a maximum village population of around 325 people, with 40 accommodated in hostel suites and the balance of 255 in self-contained units. When all existing units are fully occupied, around 128 people currently live at Peninsula Gardens, with 40 living in the hostel suites and the balance 88 in self-contained units. Allowing for each of the 25 self-contained units proposed to in the modified development to be occupied by an estimate of 1.3 people (per two bedroom unit), the modified development would see a maximum village population of around 161 people, which does not exceed the originally approved maximum.
- It is noted that when assessing the 2005 modification, the LEC was satisfied that a reduction in the number of units comprising stage 2, from 112 to 72, constituted substantially the same development as that approved under the 1982 Consent. The analysis applied in that decision applies equally in the current circumstances. That is, a reduction in the number of units and the development footprint does not preclude the proposed modified development satisfying the substantially the same test.

Based on the above, the qualitative aspects of the development are substantially the same. With respect to the quantitative aspects, the threshold test would generally consider an increase in the development yield and by consequence the extent of environmental impact. In this instance, the development will result in a reduction in yield to that which was previously contemplated with the preceding modification granted by the LEC, whereby the yield was reduced in Stage 2 from 112 to 73 units. A further reduction in yield is therefore considered to satisfy the quantitative aspect of the threshold test.

6.0 Environmental Assessment

This section considers the planning issues relevant to the proposed development and provides an assessment of the relevant matters prescribed in Section 79C(1) of the *Environmental Planning and Assessment Act 1979* (EP&A Act).

In assessing an application made under the *Environmental Planning and Assessment Regulation 2000* to enlarge, expand, intensify, alter or change an existing use, the consent authority is to assess that application under the heads of consideration in s79C of the EP&A Act. The consent authority is not to take into account any provisions of an EPI (e.g. *Pittwater Local Environmental Plan 2014*) which would derogate or have effect of derogating from the ability to approve such an application on its merits.

6.1 Environmental Planning Instruments

The proposed modification's consistency and compliance with the relevant statutory plans and policies is located in **Table** below. Variations to, and non-compliance with the key standards and guidelines highlighted in the table are discussed in the following sections of this environmental assessment.

Table 5 Summary of consistency with key strategic and statutory plans and policies

Plan	Comments
Strategic Plans Instruments	
NSW State Plan 2021	NSW 2021 is a long-term plan for services delivery within NSW and establishes priorities to guide government decision-making and resource allocation. The Plan is based on the five following strategies: • Rebuild the economy; • Provide quality services; • Renovate infrastructure; • Restore government accountability; and • Strengthen our local environment and communities. The proposal is consistent with these goals, demonstrating a commitment to the strengthening of the local community and renovation of local infrastructure through the provision of increased residential housing suitable for seniors and/or people with a disability. The proposal will also contribute to the provision of employment, generating residential floor space in close proximity to existing transport and commercial infrastructure.
Draft Greater Sydney Region Plan	The Draft Greater Sydney Region Plan 2017 produces a vision to meet the needs of a growing and changing Sydney population. It includes objectives to allow for more diverse and affordable housing across Sydney. The proposal will assist in providing housing diversity, particularly in the form of seniors housing. The services and facilities provided by this Seniors Housing development will help meet the needs of the future occupants. This ensures that these residents will have access to on-site services as well as services and facilities offered by nearby centres, including Mona Vale.
Revised Draft North District Plan	The Draft North District Plan helps give effect to the overarching goals and objectives of the Greater Sydney Region Plan by setting out priorities and actions for each district. The proposal will help address housing supply, especially in the form of seniors housing in the Northern Beaches Council area. This is important given the plan predicts a 54% increase in the number of people aged over 65 in the next 20 years within the North District.
State Planning Instruments	
Environmental Planning and Assessment Act 1979	This application utilises existing use rights under Division 10 of the EP&A Act. As stated above, the consent authority is to assess that application under the heads of consideration in s79C of the Environmental Planning and Assessment Act. The consent authority is not to take into account any provisions of an EPI (e.g. Pittwater Local Environmental Plan) which would derogate or have effect of derogating from the ability to approve such a DA on its merits. Therefore, points regarding the matters for consideration under Section 79C are made below: • the provisions of any existing or proposed environmental planning instrument are addressed in **Table 5**;

Plan	Comments	
	• the provisions of the relevant development control plan are addressed in **Section 6.2**; • no relevant planning agreement for consideration has been entered into under section 93F; • the regulations are taken into account primarily in regard to section 43 of the EPAR; • the site is not located within land affected by any coastal zone management plan; • the likely impacts of the development are assessed throughout the remainder of **Section 6**; • the suitability of the site for development is discussed in **Section 6.14**; • any submissions made in accordance with the Act or the regulations are to be considered following the public exhibition period (post lodgement of this SEE); and • the public interest is discussed in **Section 6.15**.	
SEPP 55	SEPP 55 aims to promote the remediation of contaminated land for the purposes of reducing the risk of harm to human health or any other aspect of the environment. The SEPP specifies when consent is required for the remediation of contaminated land. There is no risk posed to human health at the site due to the site history and successful operation of a seniors housing facility on site.	
SEPP 65	The proposed development is not defined as a residential flat building. Given this, an assessment against the requirements of SEPP 65 is not required.	
SEPP (BASIX)	A BASIX Certificate is located at **Appendix K**.	
SEPP 44 (Koala Habitat Protection)	Refer to **Section 6.3**.	
SEPP (Housing for Seniors and People with a Disability)	Refer to **Section 6.4**.	
Local Planning Instruments and Controls		
Pittwater Local Environmental Plan 2014	Zoning	The site is zoned RU2 Rural Landscape. Seniors Housing is not permissible under the RU2 zone. In this regard, the site is subject to a development consent which established a lawful use on the site for seniors housing. The proposed modification to amend Stage 2 of this consent is therefore reliant on the provisions of existing use rights. Clauses 41 and 42 of the *Environmental Planning and Assessment Regulation 2000* (EP&A Reg) outline provisions and limitations on development associated with existing use rights. These are replicated below: *41 Certain development allowed* *(cf clause 39 of EP&A Regulation 1994)* *(1) An existing use may, subject to this Division:* *(a) be enlarged, expanded or intensified, or* *(b) be altered or extended, or* *(c) be rebuilt, or* *(d) be changed to another use, but only if that other use is a use that may be carried out with or without development consent under the Act, or* *(e) if it is a commercial use – be changed to another commercial use (including a commercial use that would otherwise be prohibited*

Plan	Comments	
		under the Act), or *(f) if it is a light industrial use – be changed to another light industrial use or a commercial use (including a light industrial use or commercial use that would otherwise be prohibited under the Act)…* *42 Development consent required for enlargement, expansion and intensification of existing uses (cf clause 40 of EP&A Regulation 1994)* *(1) Development consent is required for any enlargement, expansion or intensification of an existing use.* *(2) The enlargement, expansion or intensification:* *(a) must be for the existing use and for no other use, and* *(b) must be carried out only on the land on which the existing use was carried out immediately before the relevant date.* McHugh JA, in the NSW Court of Appeal in *Royal Agricultural Society of New South Wales v Sydney City Council* (1987) 61 LGRA 305, states that in determining whether a use is protected by existing use provisions, there are two distinct steps. First, identify the purposes for which land was being used as the date of the later planning regulation which prohibited that use. Secondly, identify whether the use of the land thereafter is generally for the same purpose. Where an existing use has the benefit of a development consent, the use is characterised by what uses are approved. In this regard, it is evident that the approved use was for a form of seniors housing and the modification will seek to maintain the current and lawful use of the site thereby satisfying the provisions for existing use rights. Legal advice has been prepared by Norton Rose Fulbright (**Appendix B**) indicating that this development approval pathway is considered lawful.
	Clause 4.3 – Height of Buildings	8.5 metres is the applicable control under PLEP 2014. The proposal results in a non-compliance to the maximum building height -– refer to **Section 6.5.2** for further discussion.
	Clause 4.4 – Floor Space Ratio	Not applicable
	Clause 7.1 – Acid Sulfate Soils	The objective of this clause is to ensure that development does not disturb, expose or drain acid sulfate soils and cause environmental damage. The site is identified as Class 5, and is located approximately 500m away from the nearest Class 2 zone. No further assessment is warranted under this classification.
	Clause 7.2 - Earthworks	The objective of this clause is to ensure that earthworks for which development consent is required will not have a

Plan	Comments	
		detrimental impact on environmental functions and processes, neighbouring uses, cultural or heritage items or features of the surrounding land. A Concept Cut Fill Plan is available at **Appendix H,** demonstrating the extent of earthworks for which consent is being sought within this application. With regard to the matters which a consent authority must consider in relation to this clause, the following points are made: • a Concept Sediment and Erosion Control plan is available at **Appendix L** to control the extent of any disruption of, or any detrimental effect on, drainage patterns and soil stability in the locality of the development; • the proposed earthworks are a vital requirement to allow for the proposed development; • the quality of the soil to be excavated is discussed in **Section 6.8**; • the effect of the development on the existing and likely amenity of adjoining properties is discussed in **Section 6.6**; • it is anticipated that there will be larger volumes of excavated material as opposed to fill material. The destination of excess excavated material is to be subject to conditions of consent, if approved; • considering the history of the site, the likelihood of relic disturbance is low. Notwithstanding this, in the event that a relic is found, standard procedures are to be followed as per the conditions of consent, if approved; • the proposed development is located close to an existing waterway and riparian zone, however, mitigation measures included in the Concept Sediment and Erosion Control plan (**Appendix L**) will be employed to prevent any impact on the development; • appropriate measures to avoid, minimise, or mitigate the impacts of the development are discussed further throughout **Section 6**; and • the site is not located in proximity to any known heritage item, archaeological site or heritage conservation area.
	Clause 7.3 – Flood Planning	The objectives of this clause are as follows: • *to minimise the flood risk to life and property associated with the use of land,* • *to allow development on land that is compatible with the land's flood hazard, taking into account projected changes as a result of climate change,* • *to avoid significant adverse impacts on flood behaviour and the environment* The Clause applies to land at or below the flood planning level, which is defined as: ***flood planning level** means the level of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metres freeboard, or other freeboard determined by an adopted floodplain risk management plan.* Development Consent must not be granted to development on land to which this clause applies unless the consent authority is satisfied that the development: • *is compatible with the flood hazard of the land, and* • *will not significantly adversely affect flood behaviour*

Plan	Comments	
		resulting in detrimental increases in the potential flood affectation of other development or properties, and • *incorporates appropriate measures to manage risk to life from flood, and* • *will not significantly adversely affect the environment or cause avoidable erosion, siltation, destruction of riparian vegetation or a reduction in the stability of river banks or watercourses, and* • *is not likely to result in unsustainable social and economic costs to the community as a consequence of flooding.* A Concept Stormwater & Flood Management Strategy has been completed by Northrop and is available at **Appendix M**. The Strategy concludes that the development is clear of the existing floodway and as such will have no impact on the existing flooding regime. Floor levels are located above the PMF event. Therefore, the provisions of Clause 7.3 do not apply.
	Clause 7.4 – Floodplain risk management	This clause applies to land between the flood planning level and the level of the probable maximum flood but does not apply to land subject to the discharge of a 1:100 ARI (average recurrent interval) flood event plus 0.5 metre freeboard, or other freeboard determined by an adopted floodplain risk management plan. As per Clause 7.3 above, the provisions of this clause do not apply.
	Clause 7.6 – Biodiversity	The objectives of this clause seek to maintain terrestrial, riparian and aquatic biodiversity by: • protecting native flora and fauna, and • protecting the ecological processes necessary for their continued existence, and • encouraging the conservation and recovery of native fauna and flora and their habitats A Flora and Fauna Assessment was undertaken by Eco Logical Australia and is available at **Appendix N**. The report concludes that the proposed works were deemed to fulfil the objectives of Clause 7.6 subject to the following mitigation measures: • The Asset Protection Zone (APZ) and indirect development impacts do not detrimentally impact on the riparian corridor in the west of the study area. • Retaining Hollow Bearing Trees (HBTs) within the APZ (includes 4 medium to large HBTs and 3 small HBTs). These are potential roosting habitat for a number of potentially affected threatened species. • Prioritize retaining *Allocasuarina torulosa* trees within the APZ which are potential foraging habitat for the Glossy Black Cockatoo. In response to the above: • The development footprint and the APZ are positioned outside of the riparian corridor. Indirect impacts are proposed to be mitigated through initiatives including the Stormwater Management Plan (**Appendix M)** and the Sediment and Erosion Control Plan (**Appendix L**). • All HBTs listed are located outside of the development site and are proposed to be retained. • All *Allocasuarina torulosa* trees within the APZ are proposed to be retained.

Plan	Comments	
		Refer to Section 6.9.
	Clause 7.7 – Geotechnical Hazards	The overall site area includes land mapped as 'Geotechnical Hazard' within the Pittwater LEP 2014 Geotechnical Hazard Map. A Geotechnical Assessment has been undertaken by Davies Geotechnical and is available at **Appendix O**. The report concludes that engineering controls are necessary to ensure acceptable risk levels can be achieved. These controls are to be incorporated in the detailed design and construction phases of the development, and are to be reviewed for geotechnical purposes prior to commencement of construction. Normal slope management and maintenance are required for the longer term over the life of the development.
	Clause 7.10 Essential Services	The proposed development has been designed to ensure that the following services will be made available to the seniors housing development: • Water; • Electricity; • Effluent treatment and disposal; • Stormwater drainage; and • Road and driveway access.

6.2 Development Control Plans

An assessment of the proposal's consistency with the Pittwater 21 Development Control Plan (DCP) 2014 is provided in **Table 6** below. The proposed development is consistent with the objectives of the DCP. As required under Section 79C(3A) of the EP&A Act, a consent authority is required to apply DCP provisions flexibly and allow reasonable alternative solutions that achieve the objectives of those standards. Where alternate solutions to the provisions are proposed, they are identified in the table and discussed in the following sections of this environmental assessment.

Table 6 Summary of consistency with Pittwater 21 Development Control Plan 2014

Control	Compliance
Part A4 - Localities	
A4.14 Warriewood Locality	The site is located in the Warriewood Locality. The desired character of Warriewood seeks to remain characterised by a mix of residential, retail, commercial, industrial, recreational and educational land uses. Future development will maintain a building height limit below the tree canopy and minimise bulk and scale. Existing and new native vegetation, including canopy trees, will be integrated with the development. Development on slopes will be stepped down or along the slope to integrate with the landform and landscape and minimise site disturbance. Development will be designed to be safe from hazards. The proposed development will be below the tree canopy and have appropriate bulk and scale commensurate with the locality and a reduction on what the site has consent to undertake. Careful design has been undertaken to ensure that the design is safe from hazards, including bushfire. The proposed development is sympathetic with the slope of the landform and site disturbance is minimal when compared with the original development consent.
Part C1 – Design Criteria for Residential Development	
C1.1 Landscaping	A Landscape Plan has been prepared by Sym Studio (**Appendix F**) which includes a comprehensive landscaping concept for the proposed seniors housing which seeks to build on the significant landscaped characteristics of Pittwater. It is noted that whilst the DCP has landscaping controls, the Seniors SEPP includes controls relevant to seniors housing, as detailed in **Section 6.3**.

Control	Compliance
C1.2 Safety and Security	Crime Prevention Through Environmental Design principles have been applied to the design of the development. All care has been taken to ensure that passive surveillance of the development is maintained through clear sightlines and appropriate landscape design.
C1.3 View Sharing	The proposed seniors housing development is located approximately 80 metres from the nearest residence and does not result in an obstruction to any significant views.
C1.4 Solar Access	A shadow analysis has been undertaken and is included within the Architectural Drawings (**Appendix A**). This analysis demonstrates that there will be no overshadowing impact on any nearby residence. The shadow diagrams further demonstrate that the main private open space of each dwelling is to receive a minimum of 3 hours of sunlight between 9am and 3pm on June 21st. Therefore, the impact of the proposed development on adjoining properties is acceptable in terms of ensuring solar access and natural light.
C1.5 Visual Privacy	A significant, landscaped buffer remains between the proposed buildings and adjoining residences. The nearest residence is located approximately 80 metres away from the seniors housing, with significant screening provided by existing vegetation ensuring visual privacy. Furthermore, the proposed units will all achieve good levels of internal privacy through their orientation, separation and screening devices to balconies where required.
C1.6 Acoustic Privacy	The proposal is deemed to achieve an acceptable level of acoustic privacy for residents and users, and protects the acoustic privacy of any adjoining development for the following reasons: • No offensive noise is anticipated to be generated by the proposed development; • The development is sited so as to not have any noise impact on adjoining residents to the north due to the topographical nature of the valley and the asset protection buffer zone; and • The proposed seniors housing is located away from noise sources, including main roads, parking areas, living areas and communal and private open space areas and the like.
C1.7 Private Open Space	DCP controls stipulate that a minimum area of 15% of the floor area of the dwelling needs to be private open space. All of the proposed units meet this allocation.
C1.9 Adaptable Housing and Accessibility	All dwellings are proposed to be adaptable in accordance with the provisions of AS4299:1995 Adaptable Housing.
C1.10 Building Facades	No stormwater, sewer, gas, electrical or communication service pipe or conduit will form part of the façade, but rather will be incorporated into the built form.
C1.12 Waste and Recycling Facilities	A Waste Management Plan has been prepared by Aveo (**Appendix J**) and details how the operation of waste and recycling facilities will meet Northern Beaches Council standards, including those identified by the Pittwater DCP.
C1.13 Pollution Control	The seniors housing development has been designed with consideration to the natural environment and it will be constructed in a manner to prevent air, water, noise and/or land pollution.
C1.15 Storage Facilities	Storage areas have been provided within each residential garage. This storage space will be privately accessed and provided a minimum of $8m^3$ per unit.
C1.18 Car/Vehicle/Boat Wash Bays	No dedicated car/vehicle/boat wash bay is provided. However, car spaces are to be provided in outdoor areas in direct proximity to resident units that are capable of being used as wash bays.
C1.20 Undergrounding of Utility Services	All utilities within the seniors housing site will be located underground.
C1.21 Seniors Housing	The seniors housing development has been designed with regard to the overall bulk, height, scale and character of the surrounding area. Additionally, the bulk and scale of the seniors housing is consistent with the nearby development and with the built form controls. The footprints of the proposed buildings are generally in accordance with those previously considered and approved under Consent 82/149 as modified.
C124 Public Road Reserve – Landscaping and Infrastructure	Landscaping within the public road reserve can be provided in accordance with the Pittwater DCP requirements.
C1.24 Public Road Reserve – Landscaping and Infrastructure	Aveowill provide footpaths, kerb and guttering and street lighting in accordance with the relevant Northern Beaches Council policy.
Part D14 – Warriewood Locality	
D14.1 Character	The development has no direct frontage to Cabbage Tree Road and is therefore not able to be viewed from

Control	Compliance
as viewed from a public place	a public space. Nonetheless, the proposed development is of a height that is below the tree line, and is sited to respond to the topographical constraints of the site. Furthermore, and in keeping with the DCP, the design of the development also achieves the objective of providing high quality buildings designed and built for the natural context and any natural hazards.
D14.2 Scenic Protection – General	The built form has been designed to minimise the visual impact to the natural environment. Revegetation and a stepped design ensure that the visual impact has been minimised when viewed from key aspects, including existing residential properties to the north along Cabbage Tree Toad.
D14.3 Building Colours and Materials	In line with the desire to minimise the visual bulk, the buildings include finishes such as a mix of face brickwork and cladding in a suite of maroons, creams and greys. Reflectivity will be low and is unlikely to be an issue given the setbacks and sight lines to adjoining residences.
D14.7 Front Building Line	The proposed buildings are not located adjacent to any public road.
D14.8 Side and rear building line	The proposed buildings are not located adjacent to any public road.
D14.9 Narrabeen Creek building line	Not applicable
D14.11 Building envelope	Roof planes have been designed in accordance with DCP requirements. Furthermore, the development as proposed will maintain views and ensure a reasonable level of privacy, amenity and solar access is maintained within the site and to surrounding properties.
D14.12 Landscaped Area – General	Landscaping continues to form a significant portion of the development site. For a development site area of 71,413m^2, 41,500m^2 (58%) is to be a landscape area and 41,400m^2 (58%) is to be a deep soil area, which complies with the DCP control of 50%. These figures and percentages are representative of the entire lot/site area.
D14.12 Fences – General	No fencing is proposed to surround the seniors housing development.
D14.13 – Fences – Flora and Fauna Conservation Areas	No fencing is proposed to surround the seniors housing development.
D14.14 Construction, Retaining Walls, terracing and undercroft areas	Undercroft areas are limited to a maximum of 3m. Adequate landscaping is provided throughout the development.

6.3 State Environmental Planning Policy No 44 – Koala Habitat Protection (SEPP 44)

This Policy aims to encourage the proper conservation and management of areas of natural vegetation that provide habitat for koalas to ensure a permanent free-living population over their present range and reverse the current trend of koala population decline:

- by requiring the preparation of plans of management before development consent can be granted in relation to areas of core koala habitat, and
- by encouraging the identification of areas of core koala habitat, and
- by encouraging the inclusion of areas of core koala habitat in environment protection zones.

This Policy applies to Pittwater LGA (SEPP 44 – Schedule 1). SEPP 44 defines core koala habitat as:

> *An area of land with a resident population of koalas, evidenced by attributes such as breeding females (that is, females with young) and recent sightings of and historical records of a population.*

Neither koala presence, nor signs (scratches, scats, etc.) were observed during the site inspection undertaken by Eco Logical Australia (observation or remote camera). According to Eco Logical Australia, there are 90 records of koala within 5km of the study area. The two nearest records are within 1km to the east of the study area, and are dated 1967 and 1972. All records within 5km of the study area are over 30 years old. The nearest record within the

last 30 years is approximately 6km to the north-west of the study area, in Ku-ring-gai Chase National Park (25 August 2009). It is considered unlikely that a resident breeding population of koalas currently utilises the study area, and thus the study area is not considered to support koala habitat under SEPP 44.

SEPP 44 defines potential koala habitat as:

> *Areas of native vegetation where the trees of the types listed in Schedule 2 constitute at least 15% of the total number of trees in the upper or lower strata of the tree component.*

No tree species recorded within the study area during the site inspection are listed as a 'feed tree species' under Schedule 2 of SEPP 44, and thus the study area is not considered to support potential koala habitat under SEPP 44.

6.4 Seniors SEPP

The Seniors SEPP aims to encourage the provision of seniors housing, including self-contained dwellings. **Table 7** below details compliance with the Seniors SEPP. The Seniors SEPP applies to the development of Seniors Living in NSW, however, the Seniors SEPP does not apply to the site by virtue of the zoning. Furthermore, the site is subject to existing use rights based on a preceding development consent and therefore, does not require an assessment under the Seniors SEPP. However, for completeness, the relevant design standards provisions of the SEPP have been considered in Table 7.

Table 7 Assessment against the Seniors SEPP provisions

Provision	Response
Clause 33 – Neighbourhood Amenity and Streetscape	
(a) recognise the desirable elements of the location's current character (or, in the case of precincts undergoing a transition, where described in local planning controls, the desired future character) so that new buildings contribute to the quality and identity of the area, and	Desirable elements of the location's current character include the dense vegetation, with development falling beneath the tree canopy. The proposed development has been designed having regard to the desirable elements of the location's existing character, with development that continues to be below the tree canopy, and the replanting of significant vegetation to ensure that the development is compatible with the surrounding area, and which is distinct in its incorporation of a prominent landscape concept.
(b) retain, complement and sensitively harmonise with any heritage conservation areas in the vicinity and any relevant heritage items that are identified in a local environmental plan,	There are no heritage conservation areas in proximity of the site.
(c) maintain reasonable neighbourhood amenity and appropriate residential character by: *(i) providing building setbacks to reduce bulk and overshadowing, and* *(ii) using building form and siting that relates to the site's land form, and* *(iii) adopting building heights at the street frontage that are compatible in scale with adjacent development, and* *(iv) considering, where buildings are located on the boundary, the impact of the boundary walls on neighbours, and*	The proposed seniors housing development has been designed and sited to maintain neighbourhood amenity and appropriate residential character for the site by: • Providing significant setbacks to the nearest adjoining development, resulting in no overshadowing or bulk and scale impacts; • Stepping the building form in such a way that the proposal relates to the site's sloping land form; and • No boundary walls are proposed as part of the development.
(d) be designed so that the front building of the development is set back in sympathy with, but not necessarily the same as, the existing building line, and	N/A – The development site is not located immediate to a road frontage and will not present as a front building line.
(e) embody planting that is in sympathy with, but not necessarily the same as, other planting in the streetscape, and	The proposal is founded on a combined landscaping and ecology strategy which builds on the heavily landscaped character of the area.
(f) retain, wherever reasonable, major existing trees, and	The proposal seeks to retain, wherever possible, major existing trees on site. Whilst there are some (eight (8) trees of high

Provision	Response
	retention value) trees proposed to be removed, significant replanting will ensure that the existing character of the area is retained.
(g) be designed so that no building is constructed in a riparian zone.	No building is proposed in any riparian zone.
Clause 34 – Visual and Acoustic Privacy	
The proposed development should consider the visual and acoustic privacy of neighbours in the vicinity and residents by:	
(a) appropriate site planning, the location and design of windows and balconies, the use of screening devices and landscaping,	The built form has been suitably screened from nearby residences through appropriate site planning, with a significant setback provided to adjoining sites. Landscaping has been proposed in a manner that will largely ensure that the development remains unobtrusive when viewed from adjoining residential sites on Cabbage Tree Road.
(b) ensuring acceptable noise levels in bedrooms of new dwellings by locating them away from driveways, parking areas and paths.	All bedrooms in the seniors housing development are proposed to have acceptable noise levels due to the siting of the development. Bedrooms have been set back from the internal access road, which is not anticipated to generate significant noise due to low speed limits. No bedrooms are located adjacent to garages.
Clause 35 – Solar Access and Design for Climate	
(a) ensure adequate daylight to the main living areas of neighbours in the vicinity and residents and adequate sunlight to substantial areas of private open space, and	The seniors housing will not reduce the daylight levels of nearby residences.
(b) involve site planning, dwelling design and landscaping that reduces energy use and makes the best practicable use of natural ventilation solar heating and lighting by locating the windows of living and dining areas in a northerly direction	All living and dining areas / open plan areas are to have multiple aspects, including north facing outlooks.
Clause 36 – Stormwater	
(a) control and minimise the disturbance and impacts of stormwater runoff on adjoining properties and receiving waters by, for example, finishing driveway surfaces with semi-pervious material, minimising the width of paths and minimising paved areas,	A Concept Sediment and Erosion Control Plan (**Appendix L**) and Concept Stormwater Management Plan **(Appendix P)** have been prepared by Northrop and detail how the impacts of stormwater runoff are minimised.
(b) include, where practical, on-site stormwater detention or re-use for second quality water uses.	A natural waterway is present on site and acts as stormwater detention.
Clause 37 – Crime Prevention	
(a) site planning that allows observation of the approaches to a dwelling entry from inside each dwelling and general observation of public areas, driveways and streets from a dwelling that adjoins any such area, driveway or street, and	Natural surveillance and territorial reinforcement have been considered as part of the overall design.
(b) where shared entries are required, providing shared entries that serve a small number of dwellings and that are able to be locked, and	The requirement for door hardware should be implemented during preparation of the construction certificate documentation to ensure compliance.
(c) providing dwellings designed to allow residents to see who approaches their dwellings without the need to open the front door.	The requirement for door hardware should be implemented during preparation of the construction certificate documentation to ensure compliance.

Provision	Response
Clause 38 – Accessibility	
The proposed development should:	
(a) have obvious and safe pedestrian links from the site that provide access to public transport services or local facilities, and	Pedestrian links are available within the development, connecting units and also connecting through to the existing development within the seniors living facility.
(b) provide attractive, yet safe, environments for pedestrian and motorists with convenient access and parking for residents and visitors.	Carparking is provided for residents with direct access in front of their living spaces.
Clause 39 – Waste Management	
The proposed development should be provided with waste facilities that maximise recycling by the provision of appropriate facilities.	Refer to **Section 4.7**.
Clause 40 – Development Standards	
***Site Size** – Minimum 1,000sqm*	Compliant. The proposed seniors housing has a development footprint of 71,413m^2
***Site Frontage** – Minimum 20m*	Due to the nature of the site, the proposed development does not front any public road.
Height zones where residential flat buildings are not permitted *If the development is proposed in a residential zone where residential flat buildings are not permitted:* • *the height of all buildings in the proposed development must be 8 metres (as defined within the Seniors Housing SEPP) or less, and* • *a building that is adjacent to a boundary of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) must be not more than 2 storeys in height, and* • *a building located in the rear 25% area of the site must not exceed 1 storey in height*	N/A – the site is not located in a residential zone.
Clause 50 – Standards that cannot be used to refuse development consent for self-contained dwellings Note: The provisions of this clause do not impose any limitations on the grounds on which a consent authority may grant development consent.	
*(a) **building height:** if all proposed buildings are 8 metres or less in height (and regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys), or*	The height of buildings will exceed 8 metres however the overarching height control is based on the Pittwater LEP. Refer to **Section 6.5.2**.
*(b) **density and scale:** if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less,*	Compliant The FSR is less than the control at 0.22:1
*(c) **landscaped area:** if:* *(i) in the case of a development application made by a social housing provider – a minimum of 35 square metres of landscaped area per dwelling is provided; or* *(ii) in any other case – a minimum of 30% of the area of the site is to be landscaped*	Compliant The landscaped area is41,500m^2 out of a total development area of 71,413m^2, equating to 58%.
*(d) **Deep soil zones**: if, in relation to that part of the site (being the site, not only of that particular development, but also of any other associated development to which this Policy applies) that is not built on, paved or otherwise sealed, there is soil of a sufficient depth to support the growth of trees and shrubs on an*	Compliant The deep soil area is 41,400m^2 out of a total development site area of 71,413m^2, equating to 58%.This deep soil area includes the entirety of the northern and western boundary of the site.

Provision	Response
*area of not less than 15% of the area of the site (the **deep soil zone**). Two-thirds of the deep soil zone should preferably be located at the rear of the site and each area forming part of the zone should have a minimum dimension of 3 metres,*	
*(e) **solar access**: if living rooms and private open spaces for a minimum of 70% of the dwellings of the development receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid-winter,*	Compliant 18 out of 25 (72%) of dwelling receive a minimum of 3 hours direct sunlight between 9am and 3pm in mid winter, as shown in the shadow diagrams for 21 June at **Appendix A**.
***(f) private open space for in-fill self-care housing**: if:* *(i) in the case of a single storey dwelling or a dwelling that is located wholly or in part, on the ground floor of a multi-storey building, not less than 15 square metres of private open space per dwelling is provided and, of this open space, one area is not less than 3 metres wide and 3 metres long and is accessible from a living area located on the ground floor, and* *(ii) in the case of any other dwelling, there is a balcony with an area of not less than 10 square metres (or 6 square metres for a 1 bedroom dwelling), that is not less than 2 metres in either length of depth and that is accessible from a living area,*	Compliant All ILUs have access to private open spaces at least 15m^2 in size accessible off the living area, meeting the minimum dimensions required.
*(d) **parking:** if at least the following is provided:* *(i) 0.5 car spaces for each bedroom where the development application is made by a person other than a social housing provider, or* *(ii) 1 car space for each 5 dwellings where the development application is made by, or is made by a person jointly with, a social housing provider.*	Compliant 36 car spaces are proposed across 25 units with 50 bedrooms.

6.5 Built Form

The built form of the proposal has been designed in a manner which responds to its context. Responses to numerical controls are discussed further below. It is noted, however, that the consent authority is not to take into account any provisions of an EPI (e.g. Pittwater Local Environmental Plan) which would derogate or have effect of derogating from the ability to approve such a DA on its merits, due to this application being made with the intent to enlarge, expand, intensify, alter or change an existing use. It is therefore included to assist in a merits assessment of the proposed development.

6.5.1 Floor Space

The site is not subject to a floor space ratio applies to the site under the Pittwater Local Environmental Plan 2014. It is noted that Clause 50 of the Seniors SEPP states that if the density and scale of the buildings when expressed as a floor space ratio is 0.5:1 or less, this standard cannot be used to refuse development consent for self-contained dwellings. The proposed FSR for the site of 0.22:1 is significantly below this threshold.

6.5.2 Building Height

The Pittwater Local Environmental Plan 2014 specifies a maximum building height of 8.5m. In addition to this, Clause 50 of the Seniors SEPP states that all proposed buildings are to be 8m or less in height (regardless of any other standard specified by another environmental planning instrument limiting development to 2 storeys).

As mentioned previously in this report, all ILUs are compliant with this height standard, with the exception of the following:

- ILU 10: 10.679m
- ILU 11 & ILU 12: 10.081m
- ILU 13 & ILU 14: 8.763m

Under the Pittwater LEP 2014, building height is defined as:

In relation to the height of a building in metres – the vertical distance from ground level (existing) to the highest point of the building

The proposed buildings have been designed to match the level of the proposed internal access road. As a result of the fall of the land, the proposed buildings are elevated above ground level. The vertical distance from ground level to the highest point of the building is amplified by the distance between the ground floor and the foundations beneath, resulting in the breach of the height control. It is noted that if building height was measured between the ground floor and the roof of the building, this height control would not be exceeded given that the buildings are single level in nature. This is demonstrated in the figure below.

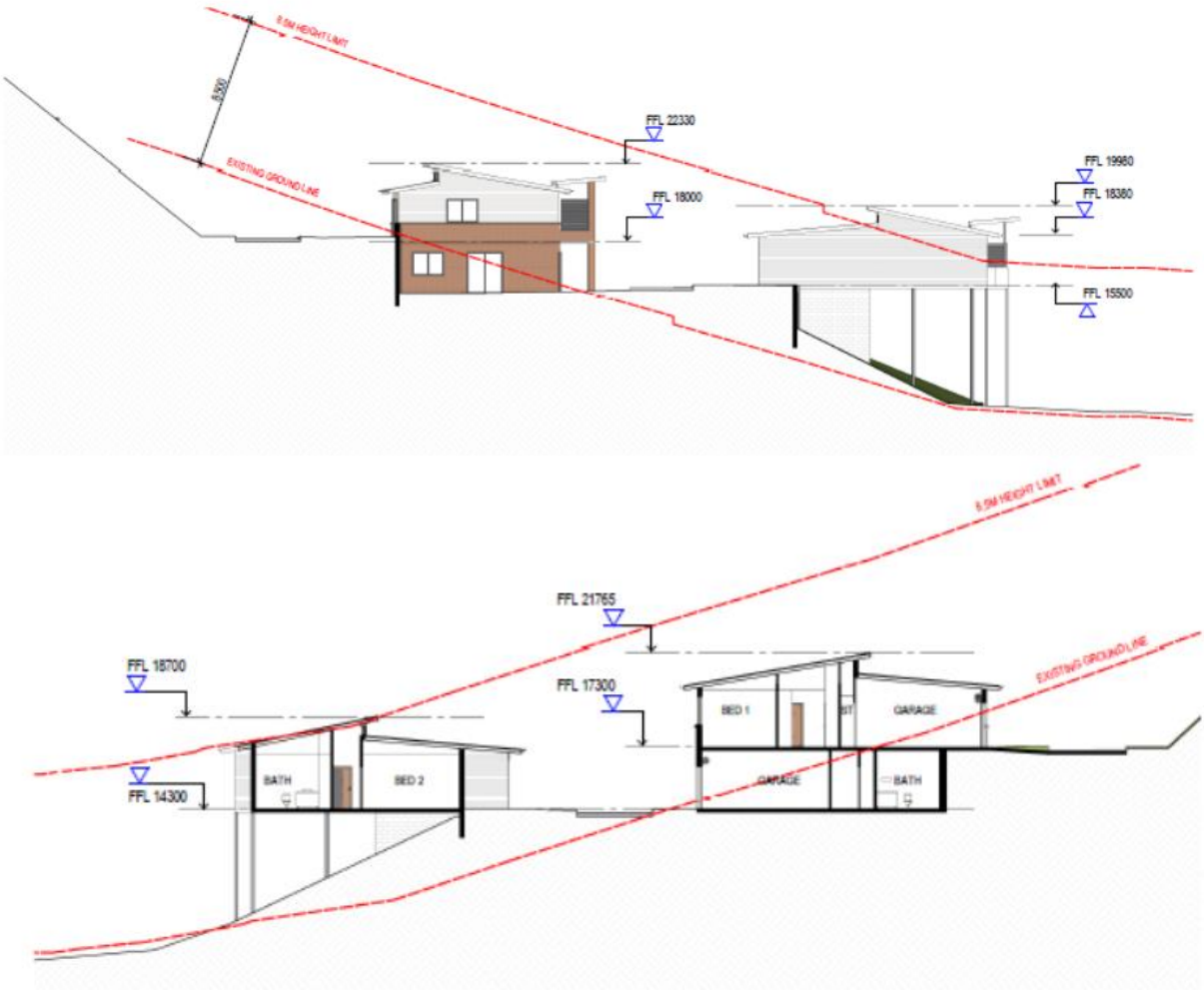

Figure 13 Site sections with 8.5m height of buildings control overlayed

Source: Jackson Teece

A Clause 4.6 variation is not required for a Section 96 application. The breach of the height control is further justified for the following reasons:

- The development is sited in the centre of the site, out of the direct sight of any nearby residential properties or views from public spaces that may be negatively impacted by the height breach;
- The proposed building form is lightweight in nature and the breach of height control is attributed to the fall of the land. The bulk of the building is considered to be acceptable given that the majority of the building height is attributed to the foundations below the finished floor level;
- Compliance in this instance cannot be achieved without stepping the floor level down with the landform which would result in a non-functional floor plate incompatible with seniors housing;

- The dwellings on the northern side of the internal access road are significantly below the height limit. The distribution of building mass is considered to be a good design response to the topography of the site. Given this, the cumulative visual impact of the proposal is satisfactory; and
- The height breach does not adversely affect any solar access requirements of any proposed dwellings.

Given the reasons above, compliance with the development standard in this instance would be highly unreasonable and unnecessary. A height variation is considered to be satisfactory in this instance.

6.5.3 Setbacks

Under the *Pittwater Local Environmental Plan 2014*, the building line or setback means the horizontal distance between the property boundary or other stated boundary (measured at 90 degrees from the boundary) and a building wall; or the outside face of any balcony, deck or the like; or the supporting posts of a carport or verandah roof – whichever distance is the shortest. Due to the large area and the siting of the development in the centre of the site, the proposed building line will not be discernible from any public streets or the public domain and complies with all of the relevant setback controls.

6.6 Impact on Adjoining Properties

Due to the siting of the development and the significant setback from any public space or road, there are no impacts to adjoining properties in terms of overshadowing, privacy, noise pollution or view loss.

6.7 Transport and Accessibility

A Traffic and Parking Impact Assessment has been prepared by the Transport Planning Partnership and is available at **Appendix Q**. This assessment has informed the findings below.

6.7.1 Access

Vehicle access to the proposed development will be maintained off the existing driveway from Cabbage Tree Road. As part of the proposed works, it is not expected that any modifications to the existing driveway will be carried out. No modification to this entrance is required to accommodate the proposed development.

6.7.2 Parking

Under the Seniors Housing SEPP, the applicable standard for parking is a minimum of 0.5 car spaces for each bedroom (where the development application is made by a person other than a social housing provider). As such, the proposed development would require at least 25 car parking spaces based on the provision of 50 bedrooms (25 x 2 bedroom ILUs).

The proposal provides a total of 35 residential car parking spaces within private enclosed garage spaces, with nine (9) visitor car parking spaces, which complies with the requirements as set out in the Seniors Housing SEPP. Furthermore, Clause 5 of the SEPP states that car parking spaces must comply with the requirements for parking for persons with a disability, whereby 5% of the total number of car parking spaces must be designed to enable the width of the spaces to be increased to 3.8m. The proposal is compliant in this regard.

The enclosed garage car parking spaces have been designed in accordance with Pittwater DCP 2014 requirements. The Pittwater DCP 2014 requires a minimum 3.0m wide by 6.0m long internal garage space, with a minimum 2.4m wide entry for a single vehicle. For two adjacent vehicles, a minimum dimension of 5.7m wide by 6.0m long internal garage space, with a minimum dimension of 5.7m wide by 6.0m long internal garage space, with a minimum 2.4m wide entry per vehicle is required.

Thus, the proposed car parking provision complies with the minimum car parking requirements as set out above. In addition to this, the car park and associated elements are proposed to be designed in accordance with the design requirements set out in the relevant Australian Standards and/or Pittwater DCP requirements.

6.7.3 Traffic Generation

Traffic generation rates for the proposed development have been estimated based on the RMS Guide to Traffic Generating Developments (Guide) and updated traffic surveys. The Guide suggests that seniors housing developments typically generate traffic at the following rates:

- Weekday daily vehicle trips: 2.1 vehicle trips per dwelling
- Weekday peak hour vehicle trips: 0.4 trips per dwelling

On that basis, the proposed provision of 25 independent living units would likely generate a total trip generation of 53 vehicle trips per day and 10 vehicle trips in the peak hour. This equates to a frequency of one vehicle every six minutes in the peak hour, which is low and considered negligible.

Thus, the traffic impacts associated with the seniors housing development (i.e. 10 vehicle movements in the peak hour) is expected to be minimal and is not expected to result in any operational or safety issues in the surrounding road network.

6.7.4 Construction Traffic Generation

A Construction Traffic Management Plan has been prepared by the Transport Planning Partnership and is available at **Appendix R**. The estimated traffic movements associated with each stage of the construction works are summarised in the table below. For more information on what is involved in each construction stage, refer to **Section 4.9**.

Table 8 Summary of Construction Traffic Movements

Construction Stage	Duration	Hourly Two-Way Movements	Daily Two-Way Movements
1	5 months	Up to 5	Up to 50
2	4 months	Up to 7	Up to 70
3	4 months	Up to 5	Up to 50
4	3 months	Up to 5	Up to 50
5	2 months	Up to 2	Up to 20

The proposed traffic generation during construction is considered to generate a modest level of vehicular traffic, with up to 7 vehicles per hour expected during the busiest period. As such, the proposed construction activities are not expected to result in any adverse impact on the surrounding road network. A number of driver protocols will be established as part of the site induction procedure for drivers to ensure the safety of motorists, pedestrians and cyclists. Truck drivers are to be instructed to use the designated truck routes to/from the site.

No pedestrian or cycle facilities would be impacted as a result of the construction activities.

6.8 Geotechnical

A Geotechnical Assessment has been undertaken by Davies Geotechnical and is available at **Appendix O**. The assessment aims to address the requirements of the Geotechnical Risk Management Policy for Pittwater (2009) where relevant. The assessment concludes that the proposed works can be carried out with an acceptable risk level, under the Geotechnical Risk Management Policy for Pittwater, subject to the implementation of the recommendations of the report.

6.8.1 Existing Geotechnical Conditions

The subject property is located on a south-facing hillslope formed on sedimentary sandstone and shale bedrock of the Hawkesbury Sandstone and the Narrabeen Group Newport Foundation. In summary, the observed subsurface conditions at nearby sites (indicating expectations for the Peninsula Gardens site) comprise:

- a profile of sandy and gravelly/sandy clay, mostly colluvial soil, 1m-2m thick, overlying
- variably/extensively weathered inter-bedded sandstone and claystone/shale/siltstone bedrock, dominated by the fine grained lithologies of the Newport Formation.

The northern hillside at Peninsula Gardens is capped by Hawkesbury Sandstone upslope from the site of the proposed development. Lower down in the area of the proposed development the slope is formed on bedrock of the Newport Formation.

In regards to slope stability, the assessment has identified unacceptable risks in regards to non-engineered or poorly-engineered work. However, with an appropriate engineering investigation, design and construction controls, the assessed risks for the development (up to Low Risk for property, and $\leq 10^{-6}$ for Loss of Life) are "acceptable" as defined in the Geotechnical Risk management Policy.

6.8.2 Mitigation methods

The following recommendations were made in the Geotechnical Assessment:

- A geotechnical investigation using boreholes, test pits or other suitable means is to be scoped by a geotechnical engineer and undertaken as part of the engineering design stage, to provided data on the subsurface conditions in areas of proposed excavation for the loop road and building footprints. The data from the investigation is to be reviewed by a geotechnical engineer and recommendations assessed for excavation support systems or batter slopes as appropriate, for the purposes of the engineering design.
- All building footings are to be taken to a bearing in undisturbed bedrock, to be verified by a geotechnical engineer at the time of construction.
- Engineering details for the proposed works are to be prepared by a suitably experienced consulting structural or civil engineer, and reviewed by a geotechnical engineer in regard to geotechnical aspects, prior to the issue of the Construction Certificate (i.e. prior to commencement of site works). Of particular relevance, as part of the design, a construction methodology is to be prepared for the road excavation component of the works, with emphasis on temporary support, staging and monitoring of the excavation, with geotechnical input as appropriate to the design for the excavation support systems.
- Particular attention is required in the stormwater design to capture and manage water flows and seepage along the existing drainage line emanating from the property at No. 83 Cabbage Tree Rd and which currently flows onto and down the existing road batter.
- It is not normally expected that the proposed building construction, and other elements of the development, would be able to sustain a design life of 100 years. In order that the proposed structures can perform after the expiry of their normal design lives, the structural designer and the manufacturer must specify either the construction requirements for the desired life span, or the remedial action necessary at the end of the normal design life.
- Roofwater and surface drainage captured by paved or landscaped areas in and around the development should be directed via sealed pipes to discharge into the natural drainage line at the base of the slope, or to the existing stormwater system, in accordance with the requirements of the Northern Beaches Council.
- All aspects of the design and construction for the development should be in accordance with the guidelines provided in *Some Guidelines for Hillside Construction*.
- In regard to Clause 6.5(g)(i) and (ii) of the Geotechnical Risk Management Policy (geotechnical design parameters and design for Construction Certificate), the following details are to be provided from the engineering design, for review by a geotechnical engineer:
  - footings for building structures, retaining walls
  - retaining walls and other slope support systems, including construction methodology
  - retaining wall drainage systems, stormwater
- In regard to Clause 6.5(g)(iii) of the Geotechnical Risk Management Policy (conditions applying to the construction), geotechnical inspections are required for the following stages of the proposed construction works:
  - excavation exposures, for verification of anticipated ground conditions;
  - monitoring of temporary excavation support structures/systems;
  - assessment of the ground conditions for footings;
  - other aspects of the development arising from the engineering design

- In regard to Clause 6.5(g)(iv) of the Geotechnical Risk Management Policy (conditions regarding ongoing management of the site/structure), the following measures are recommended:
  - maintenance and/or improvements (as necessary) for surface drainage about the site and roof water disposal, in accordance with the approved design;
  - monitoring of the performance of drainage systems about the site, particularly during and following rainfall events.

6.9 Flora and Fauna

A Flora and Fauna assessment has been completed by Eco Logical Australia and is available at **Appendix N**. The purpose of the assessment was to determine the impact that removal or modification of native vegetation would have on the potential habitat of a range of threatened flora and fauna species with the potential to occur within the study area.

It is noted that in November 2016, the NSW Parliament passed the *Biodiversity Conservation Act 2016* (BC Act). This new legislation replaced the *Threatened Species Conservation Act 1995* (TSC Act) and took effect 25 August 2017. Among other things, the BC Act introduces new requirements for biodiversity assessment and requires proponents to offset significant biodiversity impacts through the purchase and retirement of biodiversity credits. The government has recently exhibited regulations that provide further detail on the changes as well as establish the transitional arrangements.

Transitional arrangements have stated that *'Local developments (excluding select locations) will have six months from 25 August 2017 to submit a development application under the previous legislation*'. Thus this DA will be submitted under the TSC Act.

6.9.1 Flora and Fauna Survey Results

The following vegetation communities and other features were mapped within the study area:

- 2.99 ha Central Coast Escarpment Moist Forest (CCEMP) – PCT 1565, consisting of:
  - 1.77 ha CCEMP – good condition – native understorey;
  - 0.39 ha CCEMF – low condition – primarily Lantana understorey
  - 0.83 ha CCEMF – exotic understorey
- 0.53 ha Coastal Warm Temperate Rainforest (CWTR) – PCT 1529
- 0.07 ha Weeds and exotics
- 1.21 ha Urban native and exotic plantings and groundcover
- 1.19 ha Urban surfaces

The literature review identified 30 threatened flora species and 89 threatened fauna species listed under the TSC Act and / or Commonwealth *Environment Protection and Biodiversity Act 1999* (EPBC Act), which may have the potential to occur within a 5 km radius of the study area.

A total of eighty-seven (87) flora species, including eighty (80) native flora species, were identified within the study area during the site inspection. Also included within the APZ area were 4 medium to large Hollow Bearing Trees (HBTs) and 3 small HBTs. No threatened flora species listed under the TSC Act or EPBC Act were recorded during the targeted search. The survey results are captured in the figure below.

Figure 14 Flora and Fauna Assessment Survey Effort

Source: Eco Logical Australia

No threatened flora or fauna species have previously been recorded within the study area. However, the studying area contains potential habitat features for threatened species.

Twenty (20) fauna species were recorded during the site inspection. Those threatened and migratory species for which the study area was deemed likely to provide potential habitat for are:

Amphibian species:

- *Heleioporous australiacus* (Giant Burrowing Frog)

Avian species (excluding owls):

- *Calyptorhynchus lathami* (Glossy Black-Cockatoo)

Owl species:

- *Nonox connivens* (Barking Owl)
- *Ninox strenua* (Powerful Owl)
- *Tyto novaehollandiae* (Masked Owl)

Mammal species (excluding microbats):

- *Cercartetus nanus* (Eastern Pygmy-possum)
- *Phascolarctos cinereus* (Koala) species and endangered population

Microbat species:

- *Chalinolobus dwyeri* (Large-eared Pied Bat)
- *Miniopterus australis* (Little Bentwing-bat)
- *Miniopterus schreibersii oceanensis* (Eastern Bentwing-bat)
- *Mormopterus norfolkensis* (Eastern Freetail-bat)
- *Myotis macropus* (Southern Myotis)
- *Saccolaimus flaviventris* (Yellow-bellied Sheathtail-bat)
- *Scoteanax reuppellii* (Greater Broad-nosed Bat).

6.9.2 Assessment of Significance and Mitigation Measures

Assessments of Significance under the TSC Act conducted for 14 fauna species determined that the proposed works would not have a significant impact on these species and thus a Species Impact Statement is not required.

Significance Assessments under the EPBC Act conducted for three fauna species determined that the proposed works would not have a significant impact on these species, and thus a referral is not required.

The proposed works were deemed to fulfil the objectives of Biodiversity Clause 7.6 (in the PLEP 2014) if they incorporate the following mitigation measures, which include:

- The Asset Protection Zone (APZ) and indirect impacts do not impact on the riparian corridor in the west of the study area.
- Retaining hollow-bearing trees (HBTs) within the APZ (includes 4 medium to large HBTs and 3 small HBTs). These are potential roosting habitats for a number of potentially affected threatened species.
- Prioritize retaining *Allocasuarina torulosa* trees within the APZ which are potential foraging habitat for the Glossy Black Cockatoo.

- Prepare a Vegetation Management Plan (VMP) for the remaining vegetation.

6.9.3 Biodiversity Management Plan

As per the recommendations of the Flora and Fauna Assessment detailed above (at **Appendix N**), a Biodiversity Management Plan (BMP - also known as a Vegetation Management Plan, or VMP) has been prepared by Eco Logical Australia and is available at **Appendix S**. The objective of the BMP is to enhance retained native vegetation within the study area, specifically within the APZ and in the south-west of the study area. The BMP covers a minimum of 5 years or until the objectives and performance criteria outlined in the BMP are met. The key points of the BMP are as follows:

- The study area contains a number of vegetation communities and habitat features which will be retained during the proposed works;
- The Riparian Corridor is considered a 'No-go Zone' and must be clearly marked at the pre-clearance phase;
- Sediment fencing will be required around the subject site to prevent sediment entering adjacent areas, particularly the Riparian Corridor in Zone 3;
- Forest Oak trees (primary feed tree species for Glossy Black Cockatoo) within the APZ must be retained wherever possible. If a Forest Oak canopy touches a different tree species within the APZ, priority should be given to the retention of the Forest Oak if possible;
- The clearance of vegetation including the 2 stags within the development footprint must be supervised by a qualified ecologist;
- All works within the APZ are to be undertaken by qualified bush regenerators using only hand-held machinery such as brush-cutters and chainsaws. No vehicles or machines with wheels or tracks are permitted within, or to remove bushfire fuels from the APZ;
- The APZ must be maintained to the standards outlined by the RFS;
- The vegetation to be retained must be delineated into management zones and tasks for each completed within relevant timeframes (refer to **Table 4** within the BMP for more information on these timeframes); and
- Progress reporting will occur on a six monthly basis throughout the establishment period then annually for the maintenance period, and provided to Council's Natural Environment Unit. Reports will include a minimum of 3 photo points (one per zone).

6.10 Arboriculture

Separate to the Flora and Fauna Assessment, an Arboricultural Preliminary Assessment has been completed by Eco Logical Australia and is available at **Appendix G**. The purpose of the report is to:

- Identify the trees within the site that are likely to be affected;
- Assess the current overall health and condition of the subject trees; and
- Evaluate the significance of the subject trees and assess their suitability for retention.

6.10.1 Inspection Results

The trees within the development area have been assessed on the basis of their retention value. This retention value is determined using a combination of environmental, cultural, physical and social values. **Figure 15** identifies the location of all the trees surveyed respective to the development site. The figure shows the location of the high retention value trees proposed for removal.

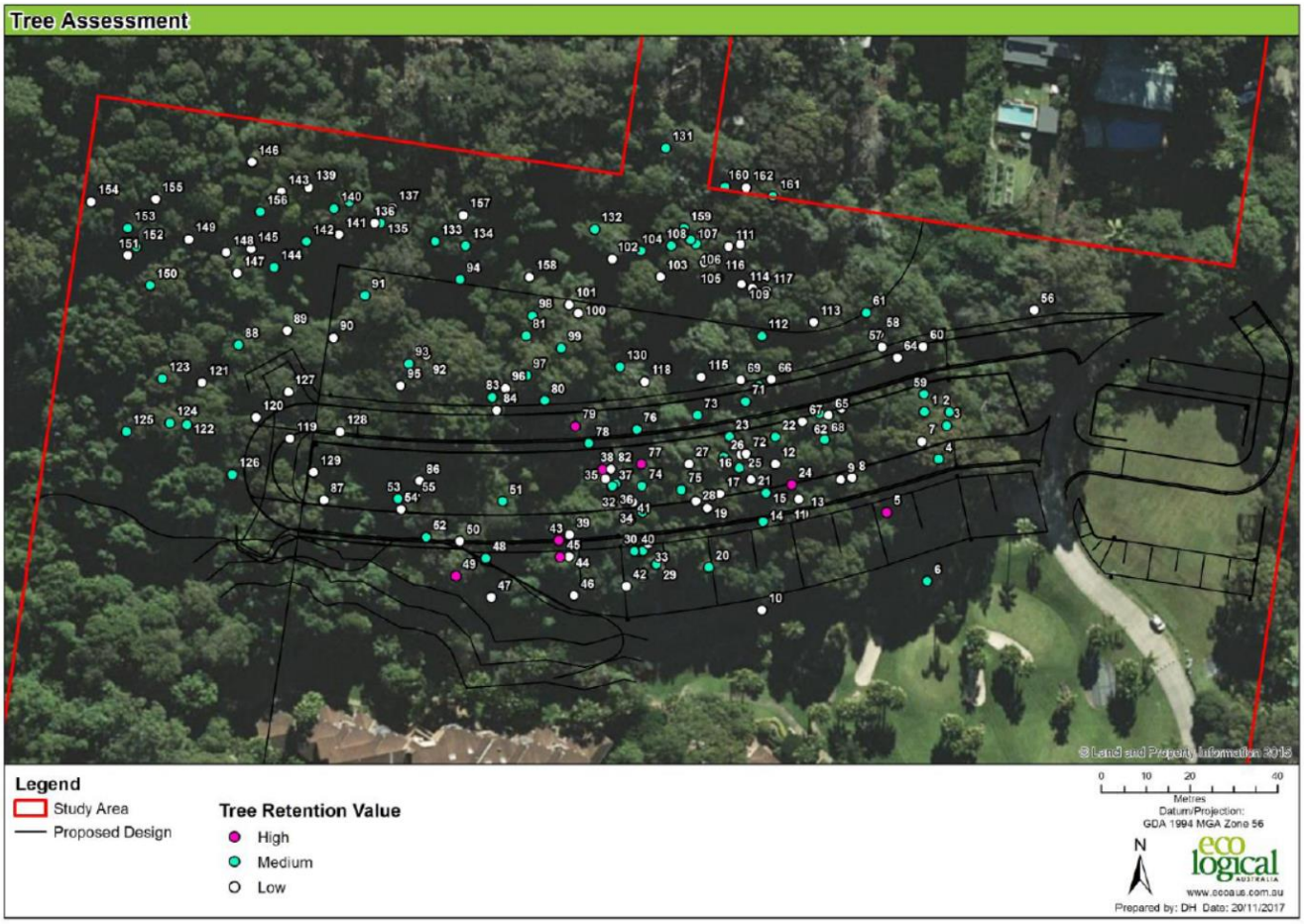

Figure 15 Tree Location Map

Source: Eco Logical Australia

6.10.2 Recommendations and Mitigation Measures

The following recommendations have been made by Eco Logical Australia with respect to the proposed development.

Tree Removal or Pruning

- All tree work must be in accordance with Australian Standard AS 4373-2007, Pruning of Amenity Trees and the NSW WorkCover Code of Practice for the Amenity Tree Industry (1998).
- All tree work is to be carried out by an arborist with minimum AQF Level 3 qualification in Arboriculture.
- Permission must be granted from the relevant consent authority, prior to removing or pruning of any of the subject trees.
- A tree management plan (see below) should be implemented for all trees proposed to be retained.

Tree Management Plan

Encroachment within the Tree Protection Zone (TPZ) must be offset with a range of mitigation measures to ensure that impacts to the subject tree(s) are reduced or restricted wherever possible. Mitigation must be increased relative to the level of encroachment within the TPZ to ensure the subject tree remains viable.

The following tree protection measures will be required if trees are retained:

- Tree protection fencing must be established around the perimeter of the TPZ. If the protective fencing requires temporary removal, trunk, branch and ground protection must be installed and must comply with AS 4970-2009

– Protection of trees on development sites. Existing fencing and site hoarding may be used as tree protection fencing.

- If temporary access for machinery is required within the TPZ, ground protection measures will be required. The purpose of ground protection is to prevent root damage and soil compaction within the TPZ. Ground protection may include a permeable membrane such as geotextile fabric beneath a layer of mulch, crushed rock or rumble boards.
- Any additional construction activities within the TPZ of the subject trees must be assessed and approved by the project arborist, and must comply with AS 4970-2009 – Protection of trees on development sites.

Offset Planting

Any loss of trees should be offset with replacement planting in accordance with any relevant offset policy.

6.11 Flooding

The proposed development is to be built entirely above the 1% AEP flood level supplied by Council flood maps, being RL 9.0m AHD. In addition to the siting of the development, a Concept Stormwater & Flood Management Strategy has been prepared by Northrop Engineers and is available at **Appendix M**. The proposed stormwater management strategy is summarised as follows:

- Runoff from new roof areas will be collected and diverted to above ground re-use tanks. Each unit will be provided with a 3kL rainwater tank. Harvested runoff shall be reused for external irrigation, toilet flushing and clothes washing. A first flush device shall be provided upstream of each tank. Overflow from the tanks will be directed to the underground pipe network for the site;
- Runoff from the internal road network and landscaped areas will be collected via surface inlet pits and conveyed to the stormwater quantity and quality treatment devices for the site via the underground pipe network. All pits collecting road runoff shall be fitted with Stormwater360 Enviropods (or equivalent) to provide pre-treatment to the stormwater runoff;
- Stormwater quantity targets will be achieved by providing a biofiltration basin downstream of the works. The basin shall provide a minimum of 40m^2 of biofiltration media with an extended detention depth of 0.3m; and
- Outflow from the biofiltration basin will be directed to the existing in ground drainage network to the lawful point of discharge into Council's piped system. The existing in ground drainage will be upgraded as required up to the point of connection to Council network. Detailed calculations will be undertaken at CC stage.

In addition to the stormwater management strategy, additional assessments were undertaken including a stormwater quantity assessment, stormwater quality assessment and a flood impact assessment. As a result of these assessments, it is concluded that the development meets the requirements of the former Pittwater Council DCP. In particular:

- the attenuation of stormwater runoff to match the pre developed scenario has been achieved via the use of On Site Detention;
- the treatment of stormwater runoff for waterborne pollutants is achieved through the proposed treatment train. This includes the use of rainwater harvesting tanks and an end of line biofiltration system; and
- the development is clear of the existing floodway and as such will have no impact on the existing flooding regime. Floor levels are located above the PMF event.

Notwithstanding the above, the proposed development is classed as integrated development under the *Water Management Act 2000*, as it includes works within 40 metres of a watercourse.

6.12 Bushfire

A Bushfire Assessment has been undertaken by Peterson Bushfire and is available at **Appendix T**. As the subject land and development site is identified as 'bushfire prone land', development proposals involving retirement living are defined 'Special Fire Protection Purpose' (SFPP) development by s100B *Rural Fires Act 1997* and require assessment in accordance with the NSW Rural Fire Service (RFS) document *Planning for Bushfire Protection 2006*. Further to the above, the development is classed as integrated development under s100B under the *Rural Fires Act 1997* and will therefore be referred to the Rural Fire Service.

Bushfire Hazard Assessment

An assessment of the bushfire hazard is necessary to determine the application of bushfire protection measures such as Asset Protection Zone (APZ) location and dimension and Bushfire Attach Level. Two key elements of this include the vegetation communities (bushfire fuels) and the topography (effective slope) that combine to create the bushfire hazard that may affect bushfire behaviour approaching the development slope.

The predominant vegetation hazard within 140m of the development site consists of the bushland that will remain on-site to the south of the existing facility and off-site to the west and north. This is shown in the figure below.

The ‘effective slope’ influencing fire behaviour underneath the forest that will remain to the north, west and south after APZ establishment is in the PBP slope class of ‘upslope/flat’.

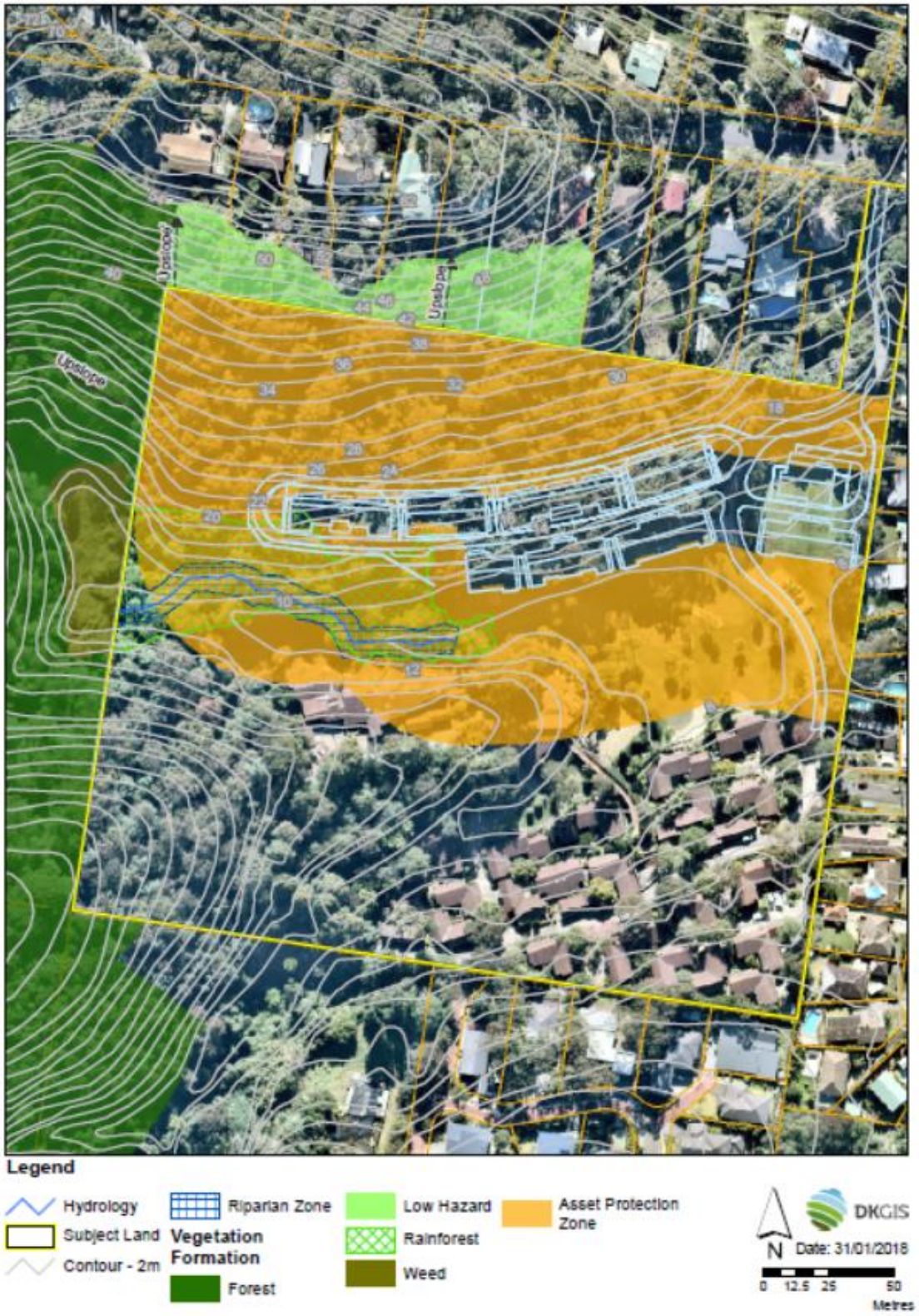

Figure 16 Bushfire Hazard Analysis and Asset Protection Zone

Source: Peterson Bushfire

Bushfire Protection Measures

The bushfire protection measures proposed for the site, as determined by Peterson Bushfire, are captured in the table below.

Table 9 Bushfire Protection Measures

<table>
<tr><th>Bushfire Protection Measures</th><th>Considerations</th></tr>
<tr><td>Asset Protection Zones (APZ)</td><td>Location and dimension of APZ building setbacks from vegetation including prescriptions of vegetation management within the APZ as per the calculations below. The vegetation to the northern boundary should be managed to ensure the corridor of vegetation within adjoining residential lots to the north is retained as ‘low hazard’ status.
<table>
<tr><th>Location</th><th>Vegetation</th><th>Slope</th><th>Required APZ</th><th>How the APZ is to be achieved</th></tr>
<tr><td>North</td><td>Low hazard</td><td>Upslope</td><td>30m (IPA=30m)</td><td>Management of vegetation to the northern boundary will exceed 30m requirement.</td></tr>
<tr><td>West</td><td>Forest</td><td>Upslope</td><td>60m (IPA=40m, OPA=20m)</td><td>Management of vegetation to the western boundary will meet 60m requirement.</td></tr>
<tr><td>South</td><td>Forest</td><td>Upslope</td><td>60m (IPA=40m, OPA=20m</td><td>Management of vegetation to the south-west required opposite creek. Remainder of site is managed.</td></tr>
<tr><td>East</td><td>Unmanaged</td><td>Not required</td><td>Not required</td><td>No hazards in east direction.</td></tr>
</table></td></tr>
<tr><td>Bushfire Attack Levels (BAL)</td><td>Assessment of BAL that corresponds to construction specifications for bushfire protection of buildings. With a compliant APZ, all buildings are rated BAL-12.5, determined in accordance with a Method 1 assessment under Australian Standard AS 3959-2009 Construction of buildings in bushfire-prone areas (AS 3959).</td></tr>
<tr><td>Access</td><td>Assessment to include access and egress in and out of a developable area, and design standards of access roads. The site has its existing primary access off Cabbage Tree Road to the north and alternate emergency access to Gulia Street to the east. Both access points allow emergency response and evacuation to occur in a variety of directions, and of most importance the access is amongst managed land provide direct linkage to the built-up suburb of Mona Vale adjacent to the east.
A one-way internal access road is proposed to loop around a cluster of ILUs on each side of the existing access road. Although not having a carriageway width of 8m as listed by the PBP Acceptable Solutions for road access, the one-way design is considered adequate in achieving the performance criteria as it controls vehicle direction ensuring that passing is not required.</td></tr>
<tr><td>Water supply and other utilities</td><td>List requirements for reticulated water supply and hydrant provisions, and any static water supplies for fire fighting:
• The development will require fire hydrants to be installed so that all sides of a building are within 70m of a hydrant by lay of the hose (or 90m with a tanker parked in-line maximum 20m from the hydrant).
• The electrical supply will be below ground and will therefore comply with the PBO,
• Any gas services are to be installed and maintained in accordance with AS/NZS 1596-2008 The storage and handling of LP gas.</td></tr>
</table>

6.13 Equitable Access

A Disability Access Report has been prepared by Lindsay Perry Access and is available at **Appendix U**. The purpose of the report is to assess the proposed development against the requirements of the Building Code of Australia 2016 (BCA), Disability (Access to Premises) Standards 2010, The *Disability Discrimination Act 1992* (DDA) and the Seniors Housing SEPP with regard to access for persons with a disability.

The report concludes that the proposed design complies, or is capable of complying, with all relevant standards for disability access.

6.14 Social and Economic Impacts

The 65 and over cohort is predicted to be the fastest growing population in NSW, with the number of people in this age range expected to double by 2050

The proposed development will have a number of significant positive social and economic benefits for the local area in that it will:

- Provide for much needed self-contained seniors in a locality with an ageing population and in a retirement village format;
- Helps meet the strategic need for additional housing diversity including the provision of seniors housing in an accessible location in a services-rich environment;
- Provide additional construction jobs in the Northern Beaches locality; and
- Consolidate services offered to senior residents by concentrating further housing on the Aveo site.

6.15 Site Suitability

Having regard to the characteristics of the site and locality, the proposed development is considered suitable on the proposed site as:

- The site of the proposed seniors housing can appropriately accommodate the development proposed whilst balancing design considerations, and preserving the amenity to neighbouring properties;
- The site is well located in a locality which contains other seniors housing establishments, and is a desirable location for seniors, with direct access to a number of services and recreational land;
- The services provided on site ensure that the proposed development offers access to services and facilities; and
- The environmental constraints on site such as flooding and bushfire are able to be appropriately managed.

6.16 The Public Interest

The proposed development is in the public interest for the following reasons:

- The development will provide for additional Seniors Housing in a location with an increasing ageing population;
- The development will create additional jobs during construction and operation;
- The development has been designed to have minimal impact on surrounding properties; and
- The development is of a high architectural standard.

7.0 Conclusion

The proposed modification application seeks approval for:

- the construction of 25 self-contained dwellings;
- associated removal of vegetation, including eight (8) trees of high retention value;
- cut and fill operations;
- new internal access roads; and
- landscaping and planting post construction of the independent living units.

Development consent is sought under Section 96AA of the *Environmental Planning Act 1979* through the modification of Development Consent 82/149. In accordance with Section 96AA of the Act, the consent authority may grant the application to modify the consent as the consent, as modified, is substantially the same development as that originally approved.

A detailed assessment of the environmental impacts has been detailed in accordance with Section 79C of the EP&A Act and the proposal is found to be suitable for the site. The proposal is generally consistent with the relevant environmental planning instruments applying to the site including the *Pittwater Local Environmental Plan 2014* and the *State Environmental Planning Policy (Housing for Seniors or People with a Disability) 2004*.

In light of the merits of the proposed development and in the absence of any significant environmental impacts, it is without hesitation that we respectfully recommend this application for approval.